GOVERNMENT OF INDIA

REFORMS OFFICE

THE UNREPEALED CENTRAL ACTS

WITH

CHRONOLOGICAL TABLE AND INDEX

VOLUME I

From 1834 to 1871, both inclusive



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1938

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PREFACE.

This series entitled "The Unrepealed Central Acts" replaces and brings up to date the fifth edition of the Unrepealed General Acts of the Governor General of India in Council which was published in eight volumes in 1928 and supplemented by a ninth volume in 1933 Besides the normal amending legislation of subsequent years, the two Orders in Council made by His Majesty under section 293 of the Government of India Act, 1935, namely, the Government of India (Adaptation of Indian Laws) Order, 1937 and the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, have made such numerous and far reaching changes in the statute book that an immediate revision of the volumes of the Unrepealed General Acts has been rendered necessary

2 The opportunity has been taken to enlarge the scope of this reference work In the previous editions only those unrepealed Acts of the Governor General in Council which extended to the whole of British India or which extended to the greater portion of British India and contained a provision admitting of their extension to the rest of British India or which applied to the Presidency towns, were reproduced The Indian Penal Code and the Codes of Civil and Criminal Procedure were published in separate volumes, while Acts which were in force in very limited areas, Acts which, though not formally repealed, were practically obsolete and Acts affecting a small number of persons were altogether excluded

3 The present edition aims at a greater measure of completeness and to indicate this fact the title has been changed from "Unrepealed General Acts of the Governor General of India in Council" to "Unrepealed Central Acts" The expression "Central Acts" is defined in the General Clauses Act, 1897 [*see* section 3, clauses (*8aa*) and (*8ac*)] comprises Acts made by—

(*a*) the Governor General in Council acting in a legislative capacity under the various Constitution Acts down to the Government of India Act, 1915,

(*b*) the Indian Legislature acting under the Government of India Act or the Government of India Act, 1935,

(*c*) the Federal Legislature acting under the Government of India Act, 1935, and

(*d*) the Governor General acting under section 67B of the Government of India Act or section 44 of the Government of India Act, 1935.

While most of the unrepealed Central Acts of local application, hitherto published only in the Provincial Codes, most of the "private Acts" not republished anywhere and the three Codes have been included in this edition, it has been considered expedient, in the interests of economy, to omit the Acts which though not formally repealed are practically a dead letter and the Acts of local application relating to land revenue, rent and tenancy which, besides being bulky, have been amended diversely in the different Provinces to which they apply.

4. In the matter of foot-notes this edition follows the older edition. These contain references to show where the Statements of Objects and Reasons, the reports of the Select Committees, if any (when such have been published), and the debates or proceedings in the Governor General's Council (down to the year 1920), connected with each Act passed during and after the year 1862, are to be found in the Official Gazette. References are also given to notifications in the Gazette regarding the commencement, extension and application of enactments. The changes made in the original Acts by later legislation are indicated in the text, by asterisks where matter has been repealed and by square brackets where it has been added or replaced, and explained in the foot-notes. In the case of repeals and substitutions the foot-notes give the original words thus affected, unless they are of inconvenient length. Cross references to Indian Acts, references to the British Statutes on which the Indian Acts are based and references to important Statutory Rules and Orders, both Central and Provincial, are also included in the foot-notes.

5. In the Acts prior to Act XV of 1854, side-notes have been added since their enactment. Beginning with that Act, however, the practice has been changed and the side-notes have been added to the Bills as introduced and form part of the enactments.

6. In the Chronological Table prefixed to each volume, the short titles of all the unrepealed Central Acts of the period covered by the volume are given and a note is added in respect of each Act not reproduced in that volume. References to subsequent amending legislation have been omitted from these tables; for a

list of such enactments the reader is referred to the Chronological Tables of Indian Statutes, Volume I. The operative paragraphs of the two Orders in Council referred to in paragraph 1 are reproduced below. A brief index is added at the end of each volume and a consolidated index at the end of the last.

7. The Acts in this volume are printed as modified up to ... 31st December 1937. Certain repealing provisions and ... Acts have, however, been omitted with a view to econom... At the time of going to press, a Bill formally to ... enactments passed not later than the 31st December ... the Central Legislature.

K. SUNDARAM, I.C.S.

Officer on Special Duty, Refo... Govern...

NEW DELHI,

1st January, 1938.

THE GOVERNMENT OF INDIA (ADAPTATION OF INDIAN LAWS) ORDER, 1937.

AT THE COURT AT BUCKINGHAM PALACE, THE 18TH DAY OF MARCH, 1937.

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by section two hundred and ninety-three of the Government of India Act, 1935 (hereafter in the recitals to this Order referred to as "the Act") His Majesty is empowered by Order in Council to provide that as from such date as may be specified in the Order any law in force in British India or in any part of British India shall, until repealed or amended by a competent legislature or other competent authority, have effect subject to such adaptations and modifications as appear to His Majesty to be necessary or expedient for bringing the provisions of that law into accord with the provisions of the Act

AND WHEREAS a draft of this Order has been laid before Parliament in accordance with the provisions of sub section (1) of section three hundred and nine of the Act and an Address has been presented to His Majesty by both Houses of Parliament praying that an Order may be made in the terms of this Order

NOW, THEREFORE His Majesty, in the exercise of the said powers and of all other powers enabling him in that behalf, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows —

1. This Order may be cited as the Government of India (Adaptation of Indian Laws) Order, 1937, and shall come into operation on the first day of April, nineteen hundred and thirty-seven

2.—(1) In this Order the expression "Indian law" means a law as defined in section two hundred and ninety-three of the Act

(2) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament

3. The Indian laws mentioned in the Schedules to this Order shall, until repealed or amended by a competent Legislature or other competent authority, have effect subject to the adaptations and modifications directed by those Schedules to be made therein or, if it is so directed, shall cease to have effect

4.—(1) Whenever an expression mentioned in the first column of the table hereinunder printed occurs (otherwise than in a title or preamble or in a citation or description of an enactment) in a Central or Provincial Act or Regulation, whether an Act or Regulation mentioned in the Schedules

to this Order or not, then, unless that expression is by this Order expressly directed to be otherwise adapted or modified, or to stand unmodified or to be omitted, there shall be substituted therefor the expression set opposite to it in column two of the said table.

Table of General Adaptations.

1.	2.
Governor-General of India in Council: Governor-General of India: Governor-General in Council: Governor-General: Government of India.	Central Government.
Governor in Council: Governor (except in the expression "Governor's Province"): Lieutenant Governor in Council: Lieutenant Governor: Chief Commissioner (except in the expression "Chief Commissioner's Province"): Local Government: Local Administration.	Provincial Government.
Gazette of India: local official Gazette: local gazette: any other expression denoting a gazette in which official notices of a government are published, not being the gazette of a district or other sub-division of a Province.	Official Gazette.

Any reference to the Governor (*or* Lieutenant Governor) of a named Province in Council shall be treated for the purposes of this paragraph as if it were a reference to the Governor (*or* Lieutenant Governor) in Council of that Province.

(2) A direction in the Schedules to this Order that a specified Indian law or section or portion of an Indian law shall stand unmodified shall be construed merely as a direction that it is not to be modified or adapted in accordance with the foregoing provisions of this paragraph.

5.—(1) Where this Order requires that in any specified Indian law, or in any section or other portion of an Indian law, certain words shall be substituted for certain other words or that certain words shall be omitted, that substitution or omission, as the case may be, shall, except where it is otherwise expressly provided, be made wherever the words referred to occur in that law or, as the case may be, in that section or portion.

(2) Where this Order requires that in any Indian law a plural noun shall be substituted for a singular noun or *vice versâ*, or a masculine noun for a neuter noun or *vice versâ*, there shall be made also in any verb or pronoun in the sentence in question such consequential amendment as the rules of grammar may require.

6.—(1) The following provisions shall have effect where any Indian law which under this Order is to be adapted or modified has before the commencement of this Order been amended, either generally or in relation to any

particular area, by the insertion or omission of words, or the substitution of words for other words—

(a) effect shall first be given in the amending law to any adaptation or modification required by paragraphs three and five of this Order to be made therein,

(b) the original law shall then be amended, either generally or, as the case may be, in its application to the particular area, so as to give effect to the directions contained in the amending law or, where any adaptation or modification has fallen to be made under sub paragraph (a), in that law as so adapted or modified, and

(c) all adaptations or modifications required by this Order to be made in the original law shall then be made in that law as so amended, except so far as in the case of any particular area they may be inapplicable

(2) In this paragraph references to the amendment of a law by the insertion or omission of words or the substitution of words do not include references to an amendment which is effected merely by directing that certain words shall be construed in a particular manner

7. Subject to the foregoing provisions of this Order, any reference by whatever form of words in any Indian law in force immediately before the commencement of this Order to an authority competent at the date of the passing of that law to exercise any powers or authorities, or discharge any functions, in any part of British India shall, where a corresponding new authority has been constituted by or under any Part of the Government of India Act, 1935, for the time being in force, have effect until duly repealed or amended as if it were a reference to that new authority

8 In any Indian law in force immediately before the commencement of this Order any reference by name or description to any territory shall, unless the contrary intention appears or unless it has been, or is by this Order, otherwise expressly provided, be construed as a reference to the territory which bore that name or answered to that description at the date when the enactment containing that name or description came into operation

Provided that in the application of any enactment to Madras Bombay, Bihar or the Central Provinces, references in that enactment to Madras, Bombay, Bihar or the Central Provinces, as the case may be, shall be construed as exclusive of so much of those Provinces respectively as was separated therefrom on the constitution of the Provinces of Orissa and Sind

9 The provisions of this Order which adapt or modify Indian laws so as to alter the manner in which, the authority by which, or the law under or in accordance with which, any powers are exercisable, shall not render invalid any notification, order, commitment, attachment, byelaw, rule or regulation duly made or issued, or anything duly done, before the commencement of this Order, and any such notification, order, commitment attachment, byelaw rule, regulation or thing may be revoked, varied or undone in the like manner, to the like extent and in the like circumstances as if it

to this Order or not, then, unless that expression is by this Order expressly directed to be otherwise adapted or modified, or to stand unmodified or to be omitted, there shall be substituted therefor the expression set opposite to it in column two of the said table.

Table of General Adaptations.

1.	2.
Governor-General of India in Council: Governor-General of India: Governor-General in Council: Governor-General: Government of India.	Central Government.
Governor in Council: Governor (except in the expression "Governor's Province"): Lieutenant Governor in Council: Lieutenant Governor: Chief Commissioner (except in the expression "Chief Commissioner's Province"): Local Government: Local Administration.	Provincial Government.
Gazette of India: local official Gazette: local gazette: any other expression denoting a gazette in which official notices of a government are published, not being the gazette of a district or other sub-division of a Province.	Official Gazette.

Any reference to the Governor (*or* Lieutenant Governor) of a named Province in Council shall be treated for the purposes of this paragraph as if it were a reference to the Governor (*or* Lieutenant Governor) in Council of that Province.

(2) A direction in the Schedules to this Order that a specified Indian law or section or portion of an Indian law shall stand unmodified shall be construed merely as a direction that it is not to be modified or adapted in accordance with the foregoing provisions of this paragraph.

5.—(1) Where this Order requires that in any specified Indian law, or in any section or other portion of an Indian law, certain words shall be substituted for certain other words or that certain words shall be omitted, that substitution or omission, as the case may be, shall, except where it is otherwise expressly provided, be made wherever the words referred to occur in that law or, as the case may be, in that section or portion.

(2) Where this Order requires that in any Indian law a plural noun shall be substituted for a singular noun or *vice versâ*, or a masculine noun for a neuter noun or *vice versâ*, there shall be made also in any verb or pronoun in the sentence in question such consequential amendment as the rules of grammar may require.

6.—(1) The following provisions shall have effect where any Indian law which under this Order is to be adapted or modified has before the commencement of this Order been amended, either generally or in relation to any

particular area, by the insertion or omission of words, or the substitution of words for other words—

(a) effect shall first be given in the amending law to any adaptation or modification required by paragraphs three and five of this Order to be made therein,

(b) the original law shall then be amended, either generally or, as the case may be, in its application to the particular area, so as to give effect to the directions contained in the amending law or, where any adaptation or modification has fallen to be made under sub paragraph (a), in that law as so adapted or modified, and

(c) all adaptations or modifications required by this Order to be made in the original law shall then be made in that law as so amended, except so far as in the case of any particular area they may be inapplicable

(2) In this paragraph references to the amendment of a law by the insertion or omission of words or the substitution of words do not include references to an amendment which is effected merely by directing that certain words shall be construed in a particular manner

7. Subject to the foregoing provisions of this Order, any reference by whatever form of words in any Indian law in force immediately before the commencement of this Order to an authority competent at the date of the passing of that law to exercise any powers or authorities, or discharge any functions, in any part of British India shall, where a corresponding new authority has been constituted by or under any Part of the Government of India Act, 1935, for the time being in force, have effect until duly repealed or amended as if it were a reference to that new authority

8. In any Indian law in force immediately before the commencement of this Order any reference by name or description to any territory shall, unless the contrary intention appears or unless it has been, or is by this Order, otherwise expressly provided, be construed as a reference to the territory which bore that name or answered to that description at the date when the enactment containing that name or description came into operation

Provided that in the application of any enactment to Madras, Bombay, Bihar or the Central Provinces, references in that enactment to Madras, Bombay, Bihar or the Central Provinces, as the case may be, shall be construed as exclusive of so much of those Provinces respectively as was separated therefrom on the constitution of the Provinces of Orissa and Sind

9. The provisions of this Order which adapt or modify Indian laws so as to alter the manner in which, the authority by which, or the law under or in accordance with which, any powers are exercisable, shall not render invalid any notification, order, commitment, attachment, byelaw, rule or regulation duly made or issued, or anything duly done, before the commencement of this Order, and any such notification, order, commitment, attachment, byelaw, rule, regulation or thing may be revoked, varied or undone in the like manner, to the like extent and in the like circumstances as if it

had been made, issued or done after the commencement of this Order by the competent authority and under and in accordance with the provisions then applicable to such a case.

10. Save as provided by this Order, all powers which under any law in force in British India, or in any part of British India, were immediately before the commencement of Part III of the Government of India Act, 1935, vested in, or exercisable by, any person or authority shall continue to be so vested or exercisable until other provision is made by some legislature or authority empowered to regulate the matter in question.

11. Nothing in this Order shall affect the previous operation of, or anything duly done or suffered under, any Indian law, or any right, privilege, obligation or liability already acquired, accrued or incurred under any such law, or any penalty, forfeiture or punishment incurred in respect of any offence already committed against any such law.

12. For the avoidance of doubt it is hereby declared that—

(*a*) *nothing in this Order transferring or assigning any functions to* the Central Government shall be construed as excluding those functions from the operation of section one hundred and twenty-three or section one hundred and twenty-four of the Government of India Act, 1935 ;

(*b*) the transfer by this Order to a Provincial Government of any jurisdiction theretofore exercisable by the Local Government of the Province shall not be construed as excluding that jurisdiction from the operation of sub-section (2) of section two hundred and ninety-six of the said Act ;

(*c*) nothing in this Order shall affect the provisions of any Order in Council for the time being in force made under section one hundred and fifty-eight, section one hundred and fifty-nine or section one hundred and sixty of the said Act (which empower Orders to be made regulating the relations of India and Burma as to their monetary systems, relief from double taxation, customs, and ancillary and related matters), or under any corresponding provisions in the Government of Burma Act, 1935 ; and

(*d*) no repeal effected by this Order shall affect the operation of sub-paragraph (2) of paragraph fifteen of the Government of India (Commencement and Transitory Provisions) Order, 1936.

THE GOVERNMENT OF INDIA (ADAPTATION OF INDIAN LAWS) SUPPLEMENTARY ORDER, 1937.

AT THE COURT AT BUCKINGHAM PALACE, THE 29TH DAY OF JULY, 1937

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by section two hundred and ninety three of the Government of India Act, 1935 (hereafter in the recitals to this Order referred to as "the Act") His Majesty is empowered by Order in Council to provide that as from such date as may be specified in the Order any law in force in British India or in any part of British India shall, until repealed or amended by a competent legislature or other competent authority, have effect subject to such adaptations and modifications as appear to His Majesty to be necessary or expedient for bringing the provisions of that law into accord with the provisions of the Act

AND WHEREAS in exercise of the said powers in Order in Council called the Government of India (Adaptation of Indian Laws) Order, 1937 (hereafter in this Order referred to as "the Principal Order") has been made

AND WHEREAS by sub section (2) of section three hundred and nine of the Act His Majesty in Council is empowered to vary any Order in Council previously made under the Act

AND WHEREAS a draft of this Order has been laid before Parliament in accordance with the provisions of sub section (1) of section three hundred and nine of the Act and an Address has been presented to His Majesty by both Houses of Parliament praying that an Order may be made in the terms of this Order

NOW, THEREFORE, His Majesty, in the exercise of the said powers and of all other powers enabling him in that behalf, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows —

1 This Order may be cited as the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937

2 The Schedules to the Principal Order shall be modified as directed in the Schedule to this Order, and shall have effect, and be deemed always to have had effect, as so modified

LIST OF ABBREVIATIONS USED.

A. O. . . . . for Government of India (Adaptation of Indian Laws) Order, 1937, as modified by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937.
B. & O. . . . . „ Bihar and Orissa.
Ben. . . . . „ Bengal.
Bom. . . . . „ Bombay.
Brit. Enact., I. S . . . . „ British Enactments in force in Indian States.
Ch. . . . . . . „ Chapter.
Cl. . . . . „ Clause
Coll. Stat. Ind. . . . . „ Collection of Statutes relating to India.
C. P. . . . . „ Central Provinces
E. B. & A. . . . . „ Eastern Bengal and Assam
Gen R. & O. . . . . . . „ General Statutory Rules and Orders.
G. G. in C. . . . . . . „ Governor General in Council.
G. G. of India in C. . . . „ Governor General of India in Council.
G. in C. . . . . „ Governor in Council.
G. of I. . . . . „ Government of India.
Govt. . . . . „ Government.
Ins. . . . . „ Inserted.
L. G. . . . . „ Local Government.
Mad. . . . . „ Madras
N.-W. F. P. . . . . . . „ North West Frontier Province
Pt. . . . . „ Part
R. and O. . . . . . . „ Rules and Orders.
Reg. . . . . „ Regulation
Rep . . . . „ Repealed.
S. . . . . „ Section.
Sch . . . . „ Schedule.
Subs. . . . . „ Substituted.
U. P. . . . . . . „ United Provinces.

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS, 1834-1871.

1 Year.	2 No	3 Short title or Subject	4 Page
1834	II	The Secretaries to Government Act, 1834 . . .	1
1835	XIX	The Dekkhan Assistant Agent's Appointment Act, 1835	1
1836	X	The Bengal Indigo Contracts Act, 1836 . . .	2
	XX	Batwaras	Not printed [1]
	XXI	The Bengal Districts Act, 1836 . . .	4
1837	IV	The Property in Land Act, 1837	4
	XXVII	Salt	Not printed [1]
	XXXVI	The Madras Public Property Malversation Act, 1837 .	5
1838	V	Bengal Bonded Warehouse	6
	XI	Remuneration of Amins effecting Partitions . .	Not printed [1]
	XVI	The Bombay Courts of Adalat Act, 1838	14
	XVIII	Sureties, Bombay	Not printed [1]
	XIX	The Bombay Coasting Vessels Act, 1838	16
1839	VII	The Madras Rent and Revenue Sales Act, 1839 . .	Not printed [2]
	XX	The Bombay Haqqa Prohibition Act, 1839 . .	19
	XXIV	The Ganjam and Vizagapatam Act, 1839	20
	XXIX	The Dower Act, 1839	22
	XXXII	The Interest Act, 1839	26
1840	XV	The Bombay Regulation XIII of 1830 (Application) Act, 1840	27
1841	X	The Indian Registration of Ships Act, 1841 . .	28
	XII	The Bengal Land Revenue Sales Act, 1841 . .	Not printed [3]
	XXIV	The Illusory Appointments and Infants' Property Act, 1841.	44
1842	XIII	Revenue, Bombay	Not printed [1]
	XVII	Revenue Commissioners, Bombay	Not printed [1]

[1] Practically obsolete

[2] Relates to land revenue *See* Mad Code, Vol I.

[3] Relates to land revenue. *See* B & O, Code, Vol I.

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS, 1834-1871—*contd.*

1 Year.	2 No.	3 Short title or Subject.	4 Page.
1843	V	The Indian Slavery Act, 1843	48
1844	XIX	The Bombay Town-duties Abolition Act, 1844	49
1845	I	Sales of Land for Revenue-arrears	Not printed.[1]
1846	I	The Legal Practitioners Act, 1846	50
	III	Boundary-marks, Bombay	Not printed.[1]
1847	I	Boundaries	Not printed.[1]
	IX	The Bengal Alluvion and Diluvion Act, 1847	52
1848	XV	The Supreme Courts' Officers Trading Act, 1848	54
	XVIII	Nawab of Surat	Not printed.[1]
	XX	The Bengal Landholders' Attendance Act, 1848	55
1849	X	The Madras Revenue Commissioner Act, 1849	56
1850	V	The Indian Coasting Trade Act, 1850	57
	XI	The Indian Registration of Ships Act (1841) Amendment Act, 1850.	58
	XII	The Public Accountants' Default Act, 1850	59
	XVIII	The Judicial Officers' Protection Act, 1850	61
	XIX	The Apprentices Act, 1850	62
	XXI	The Caste Disabilities Removal Act, 1850	70
	XXIII	The Calcutta Land Revenue Act, 1850	Not printed.[2]
	XXV	The Forfeited Deposits Act, 1850	71
	XXVI	Improvements in Towns	Not printed.[1]
	XXXIV	The State Prisoners Act, 1850	72
	XXXVII	The Public Servants (Inquiries) Act, 1850	72
1851	VIII	The Indian Tolls Act, 1851	78
	XII	The Madras City Land Revenue Act, 1851	Not printed.[3]
1852	VIII	The Sheriffs' Fees Act, 1852	81
	XI	The Bombay Rent-free Estates Act, 1853	Not printed.[4]
	XXI	Deputy Collectors, Bombay	Not printed.[1]

[1] Practically obsolete.
[2] Relates to land-revenue. *See* Ben. Code, Vol. I.
[3] Relates to land-revenue. *See* Mad. Code, Vol. I.
[4] Relates to land-revenue. *See* Bom. Code, Vol. I.

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS 1834 1871—*contd*

[1] Relates to rent *See* Ben Assam B & O Codes
[2] Relates to land revenue *See* Ben Code, Vol. I

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS, 1834-1871—*contd.*

1 Year.	2 No.	3 Short title or Subject.	4 Page.
1857	VII	The Madras Uncovenanted Officers' Act, 1857	162
	X	The Sonthal Parganas Act, 1857	162
	XIII	The Opium Act, 1857	163
	XXI	The Howrah Offences Act, 1857	172
1858	I	The Madras Compulsory Labour Act, 1858	181
	III	The State Prisoners Act. 1858	184
	XXXI	The Bengal Alluvial Land Settlement Act, 1858	185
	XXXVII	Nawab of Carnatic	Not printed.[1]
1859	V	The Bengal Ghatwali Lands Act, 1859	186
	IX	The Forfeiture Act, 1859	187
	X	The Bengal Rent Act, 1859	Not printed.[2]
	XI	The Bengal Land-revenue Sales Act, 1859	Not printed.[2]
	XII	The Calcutta Pilots Act, 1859	189
	XIV	Summary Dispossession	Not printed.[1]
	XX	The Moplah Outrages Act, 1859	194
	XXIV	The Madras District Police Act. 1859	197
1860	XXI	The Societies Registration Act, 1860	206
	XXXIV	The Government Officers' Indemnity Act, 1860	212
	XLV	The Indian Penal Code	213
1861	V	The Police Act, 1861	353
	XVI	The Stage-Carriages Act, 1861	369
1862	III	The Government Seal Act, 1862	375
1863	XVI	The Excise (Spirits) Act, 1863	376
	XIX	Partitions of Revenue paying Estates	Not printed.[1]
	XX	The Religious Endowments Act, 1863	378
	XXIII	The Waste-lands (Claims) Act, 1863	386
1864	III	The Foreigners Act, 1864	394
	VIII	Comptoir d'Escompte de Paris	402

[1] Practically obsolete.
[2] Relates to land-revenue. *See* Ben. Code, Vol. I.

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS, 1834-1871—*contd.*

[1] Relates to land revenue *See* U. P. Code, Vol. I.
[2] Practically obsolete
[3] A purely amending Act

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS, 1834-1871—*concld.*

1 Year.	2 No.	3 Short title or Subject.	4 Page.
1870	XXVII	The Indian Penal Code Amendment Act, 1870 . .	Not printed.[1]
1871	I	The Cattle-trespass Act, 1871	609
	IV	The Coroners Act, 1871	619
	XXI	Dehra Dun	628
	XXII	The Bengal Chaukidari (Amendment) Act, 1871 .	Not printed.[1]
	XXIII	The Pensions Act, 1871	629
	XXXI	The Indian Weights and Measures of Capacity Act, 1871.	633

[1] A purely amending Act.

CORRIGENDA

Page 22. In line 23, *for* " he " *read* " [12a][it] ".

After foot-note 12, *insert*.—

" [12a] Subs by the A O for 'he'."

Page 53. In line 21, *after* " Government " *insert* " [3a][or to any land not subject to the payment of revenue] ".

After foot-note 3, *insert* —

" [3a] Ins by the Bengal Alluvion and Diluvion (Amendment) Act, 1936 (Ben 9 of 1936), s 2 "

Page 79 In line 8, *for* " them " *read* " [4a][it] ".

After foot note 4, *insert* —

" [4a] Subs by the A O for 'them' "

Page 88. In lines 8 and 9, *for* " Governor of the Presidency of Fort William in Bengal " *read* " [1a][Central Government] ".

Before foot-note 1, *insert* :—

" [1a] Subs by the A O for 'Governor of the Presidency of Fort William in Bengal' "

Page 99 In line 12, *for* " meaning " *read* " meanings ".

Page 122 · In line 9, *for* " the territories of the East India Company " *read* " [2a][British India] ".

After foot-note 2, *insert* —

" [2a] Subs by the A O for 'the territories of the East India Company'."

Page 149 *Below* line 21, *add* —

" 22 Meaning of 'Government'."

Page 165 In line 22, *for* " he " *read* " [7][it] "

After foot note 6, *add* —

" [7] Subs by the A O for 'he' "

Page 170 In line 26, *before* " Crown " *insert* " the ".

Page 193 In line 21, *interchange* foot note marks " [2] " and " [3] ".

Page 555 *For* line 27, *read* " 2 [*Repealed*] "

Page 608 In line 28, *for* " he " *read* " [4][it] "

After foot note 3, *add* :—

" [4] Subs by the A O for 'he' "

THE

UNREPEALED CENTRAL ACTS

VOLUME I.

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[1][THE SECRETARIES TO GOVERNMENT ACT, 1831.]

ACT No. II OF 1831.

[20th November, 1831.]

Be it enacted that each of the Secretaries to the[2] [Central Government] [3]* * shall be competent to perform all the duties and to exercise all the powers which by any Act of Parliament or any Regulation now in force[4] are assigned to the Chief Secretary to the Government of Fort William in Bengal; and that each of [5][the Secretaries to the Provincial Governments of Madras and Bombay] respectively shall be competent to perform all the duties, and to exercise all the powers which, by any Act of Parliament, or any Regulation now in force are assigned to the Chief Secretaries to the Governments of Fort St George and Bombay, respectively.

Secretaries to Government to exercise powers of Chief Secretaries.

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[6][THE DEKKHAN ASSISTANT AGENT'S APPOINTMENT ACT, 1835.]

ACT No. XIX OF 1835.

[9th November, 1835.]

Be it enacted, that it shall be competent for the[7] [Provincial Government] of Bombay to appoint the Assistant Judge of the Zila Court of Puna to be Assistant to the Agent[8] for Sardars in the Dekkhan;

Appointment and powers of Assistant to Agent for Sardars in Dekkhan.

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[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897)
This Act has been declared, under s 3 (a) of the Schedule Districts Act, 1874 (14 of 1874) to be in force in the following Scheduled Districts, namely —the Districts of Hazáribágh, Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt I, p 44) and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum. *See* Gazette of India, 1881, Pt I, p 504

[2] Subs by the A O for "G of I"

[3] The words "... II of the Repealin...

[4] *See* the Eas... pany Act, 1813 (5... of India Act, 191...

[5] Subs by t... the Secretaries to the Governments of Fort St George and Bombay"

[6] Short title given by the Bombay Short Titles Act, 1921 (Bom. 2 of 1921).

[7] Subs by the A O for "G in C"

[8] As to the Agent, *see* Bom Reg 29 of 1827, s 4, clause *first*.

and it shall be competent to the Agent for Sardars to refer to his Assistant original suits against Sardars for amounts not exceeding five thousand rupees [1] * * *;

and every decree of the Assistant shall be open to an appeal to the Agent within thirty days from the date of the decree; and every decision of the Agent on such appeal shall be open to a special appeal[1] * * to the [2] [Provincial Government], or to the Sadr Adalat, according as the rank of the Sardar may subject him to the jurisdiction of either authority: Provided that such last-mentioned appeal shall be brought within ninety days after the date of the decree of the Agent.

Procedure in appeal to Provincial Government.

[3][2. The provisions of the [4] Code of Civil Procedure relating to appeals to a High Court from decrees passed in appeal shall apply, so far as may be, to appeals to the [2] [Provincial Government] under this Act.]

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[5][THE BENGAL INDIGO CONTRACTS ACT, 1836.]

ACT NO. X OF 1836.

[*11th April, 1836.*]

1. [*Repeal of cl. 3 of s. 5 of Ben. Reg. VI of 1823.*] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

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[1] The words "and in the trial of such suits the Assistant shall follow the same rules which are now applicable to the Agent" and the words and figures "under the provisions of Chapter XXII, Regulation IV of 1827 of the Bombay Code" rep. by the Repealing and Amending Act, 1891 (12 of 1891).

[2] Subs. by the A. O. for "G. in C."

[3] S. 2 ins. by the Amending Act, 1891 (12 of 1891).

[4] *See* now the Code of Civil Procedure, 1908 (5 of 1908).

[5] Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

This Act has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6, to be in force throughout the former Province of Bengal and the former North-Western Provinces, except the Scheduled Districts.

It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri, in the Jalpaiguri District	*See* Gazette of India,	1881, Pt. I, p. 74.
The Districts of Hazaribagh, Ranchi, Palamau and Manbhum and Pargana Dhalbhum and the Kolhan in the district of Singbhum in the Chota Nagpur Division	Ditto	1881, Pt. I, p. 504.
The Scheduled portion of the Mirzapur District	Ditto	1879, Pt. I, p. 383.
Jaunsar Bawar	Ditto	1879, Pt. I, p. 382.

The application of the Act is barred in—

the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4(2).

the district of Angul, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3(2).

the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3(2).

2. [1]* * * Whenever the right to indigo plant may be contested and an order shall be passed under the provisions of clause *Ninth*, section 3, [2] Regulation VI, 1823, of the Bengal Code, for the delivery of indigo plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the indigo plant until he shall have given sufficient security to the satisfaction of the Court trying the case to make good any claim that shall be ultimately established to such indigo plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced

Security to be given by person desiring to remove indigo plant ordered to be delivered to him

3 [1]* * * When a lawful contract shall have been made between a *raiyat* and another party, by which contract the *raiyat* shall have bound himself to cultivate indigo plant for the other party, or to deliver indigo plant to the other party, and when the other party shall have advanced money to the *raiyat* for the purpose of enabling the *raiyat* to fulfil such contract, then if any other person, knowing that such contract exists and that such advance has been made, shall prevail upon the *raiyat* to break such contract the party who made the advance shall be entitled to proceed by civil action against the person who shall have so prevailed on the *raiyat*, as well as against the *raiyat*, and to recover from him or them, jointly or severally, damages to the extent of the injury sustained, together with costs of suit

Right of suit of person making advances for cultivation or delivery of indigo-plant when breach of contract is induced by third person

Provided always that nothing in this section contained shall be construed to give a right of action against any person in consequence of any act which that person may have done for the purpose of procuring payment of a debt or performance of a lawful contract

Bar of suit for act done to recover debt or secure performance of lawful contract

4. [1]* * * The Court trying any suit instituted under the provisions of [2]Regulation VI of 1823, of the Bengal Code, or under the provisions of this Act shall be authorised to examine both the plaintiff and the defendant whenever the Court shall deem such examination necessary to the ends of justice, and, if the award be in favour of the defendant, to assign to the defendant a sum which may be a compensation to him for the expense and loss of time occasioned by the proceeding

Power to examine both plaintiff and defendant in suit, and to award compensation to successful defendant.

5. [*Power to refer certain suits to a Principal Sadar Amin or Sadar Amin*] *Rep by the Repealing Act, 1868 (VIII of 1868)*

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[1] The words "And it is hereby enacted that rep by the Repealing Act 1874 (16 of 1874)

[2] The Bengal Indigo Contracts Regulation 1823

[1][THE BENGAL DISTRICTS ACT, 1836.]

ACT No. XXI OF 1836.

[*11th September, 1836.*]

Power to create new *zilas.*

[2]* * * It shall be lawful for [3][the [4][Provincial Government], by notification in the [5][Official Gazette]] to create new *zilas* in any part of the Presidency of Fort William in Bengal[6]* *.

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[7][THE PROPERTY IN LAND ACT, 1837.]

ACT No. IV OF 1837.

[*17th April, 1837.*]

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[1] Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.
The Act has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6, to be in force throughout the former Province of Bengal, except the Scheduled Districts.
It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in—

West Jalpaiguri and the Western Duars in the Jalpaiguri District . .	*See* Gazette of India, 1881, Pt. I, p. 74.
The districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan in the district of Singbhum, in the Chota Nagpur Division . . .	Ditto 1881, Pt. I, p. 504.

It has also been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3.
[2] Formal words rep. by the Repealing Act, 1874 (16 of 1874).
[3] The original words, *viz.*, " the G. G. in C., by an Order in Council ", have been successively amended by the Amending Act, 1903 (1 of 1903), the Devolution Act, 1920 (38 of 1920), and the A. O. to read as above.
[4] Subs. by the A. O. for " L. G."
[5] Subs. by the A. O. for " local official Gazette ".
[6] The words " and to alter the limits of existing *zilas* " rep. by the Amending Act, 1903 (1 of 1903).
[7] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).
This Act has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3, to be in force in the whole of British India, except the Scheduled Districts.
It has also been declared to be in force in the Sonthál Parganas by the Sonthál Parganas Settlement Regulation (3 of 1872), s. 3 and schedule.
It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

Sind	*See* Gazette of India,	1880, Pt. I, p. 672.
West Jalpáiguri	Ditto	1881, Pt. I, p. 74.
The District of Hazáribágh . . .	Ditto	1881, Pt. I, p. 507.
The District of Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44) . . .	Ditto	1881, Pt. I, p. 508.
The District of Mánbhum . . .	Ditto	1881, Pt. I, p. 509.
Pargana Dhálbhum in the District of Singbhum	Ditto	1881, Pt. I, p. 510.
The Scheduled portion of the Mirzápur District	Ditto	1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.
The Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismail Khán and Dera Ghází Khán. (*Portions of*		

1. [1]* * * It shall be lawful for any subject of His Majesty to acquire and hold in perpetuity, or for any term of years, property in land, or in any emoluments issuing out of land, in any part of the territories of the East India Company [2] — All subjects of Crown empowered to hold land

2. [3]* * * * * * All rules which prescribe the manner in which such property as is aforesaid may now be acquired and held by Natives of the said territories[4] shall extend to all persons who shall, under the authority of this Act, acquire or hold such property [5] — Rules applied to holding under Act.

[6][THE MADRAS PUBLIC PROPERTY MALVERSATION ACT, 1837]

Act No XXXVI of 1837.

[20th November, 1837]

1. [7]* * * The jurisdiction vested in Collectors, Subordinate Collectors and Assistant Collectors, by Regulations IX of 1822 and VII of 1828 of the — Extension of jurisdiction of Collectors

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the Districts of Hazara, Bannu Dera Ismail Khan and Dera Gha i Khan and the Districts of Peshawar and Kohat now form the N W F P, see Gazette of India 1901, Pt I, p 857, and ibid, 1902, Pt I, p 575,

Hazara (Upper Tanawal) Regulation, 1900 (2 of 1900) s 3	
	See Gazette of India, 1886, Pt I, p 48
The District of Lahaul	Ditto 1886 Pt I, p 301
The District of Sylhet	Ditto 1879, Pt I, p 631
The Scheduled Districts in Ganjam and Vizagapatam	Ditto 1898, Pt I, p 869, and Fort St George Gazette, 1898, Pt I, p 666

mentioned Act, to the Scheduled
, Pt I p 606
of May next rep by the Repeal

n 1793 (2 of 1793) ss 17 and 46, aling Act, 1874 (16 of 1874), s 1, respectively

[3] The words " And it is hereby enacted that ' rep by the Repealing Act, 1874 (16 of 1874)

[4] For definitions of the term ' Natives of India " *see* the Army Act (44 & 45 Vict, c 58), s 190 (22)

[5] *See* also the Landholders' Public Charges and Duties Act, 1853 (2 of 1853), *infra*

[6] Short title given by the Amending Act, 1901 (11 of 1901)

This Act was declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts by the Laws Local Extent Act 1874 (15 of 1874) s 4

and their subordinates in cases of embezzlement, etc., to similar offences by persons of certain classes.

Madras Code, in cases of embezzlement of public money, and of the falsification, destruction or concealment of any public account, record, voucher or document relating to public money, shall extend to cases of the embezzlement of any public property or the falsification, destruction or concealment of any public account, record, voucher or document, relating to any public property, by any person of any of the classes described in the third clause of section 2 of the said Regulation IX of 1822.

Extension of enactments relating to embezzlement, etc., to similar offences by persons of certain classes.

2. [1]* * * * All provisions of either of the said Regulations IX of 1822 and VII of 1828, which apply to cases of the embezzling of public money, shall apply to cases of the embezzling of public property whatever, by persons of any of the classes described in the third clause of section 2 of the said Regulation IX of 1822 : [1]* * all provisions of either of those Regulations, which apply to cases of the falsification, destruction or concealment of any public account, record, voucher or document relating to public money, shall apply to cases of the falsification, destruction or concealment of any public account, record, voucher or document, relating to any public property whatever, by persons of any of the said classes.

[THE BENGAL BONDED WAREHOUSE ASSOCIATION ACT, 1838.]

CONTENTS.

SECTIONS.

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[1] The words "It is hereby enacted that" and the words "and that" in the second clause rep. by the Repealing Act, 1874 (16 of 1874), and the words "from the said day", which occurred immediately before the opening words of the section as it now stands, rep. by the Repealing Act, 1870 (14 of 1870).

SECTIONS.

ACT NO V OF 1838

[14th March, 1838]

1. It is hereby enacted, that the persons whose names appear in the Schedule No 1, hereunto annexed, shall, from the 14th day of March, 1838, form a corporate body for the Warehousing of Goods, either in bond or otherwise, by the name of the Bengal Bonded Warehouse Association **Incorporation**

2. And it is hereby enacted, that the said Association shall sue and be sued by its corporate name, and shall use such common seal as the Directors of the said Association shall from time to time appoint, and may acquire, may **Power to sue and be sued, and to acquire, hold**

and transfer property. hold absolutely, may hold by way of pledge, and may transfer, any description of property whatever.

Capital stock and shares. 3. And it is hereby enacted, that the sum of 10,00,000 Rs. subscribed for the purpose of the said Association by the persons hereby incorporated, shall be the Capital Stock of the said Association, and shall be divided into 2,000 shares of 500 Rupees each, and that every one of the persons hereby incorporated shall have one share of such Capital Stock for every 500 Rupees which such person shall have subscribed.

Registering of names of proprietors. 4. And it is hereby enacted, that the Directors of the said Association shall cause the names, additions, and places of residence of the proprietors of shares in the said Capital Stock, and the number of shares held by each proprietor, to be registered in a book, and the said shares shall in such book be numbered, beginning from No. 1, and such book shall be kept at the office of the said Association, and shall there be open to the inspection of all persons during the usual hours of business.

Register to be open to inspection.

Share-certificates. 5. And it is hereby enacted, that a certificate signed by three Directors of the said Association shall be delivered to every proprietor of the said Capital Stock, and that it shall be at the option of every proprietor of several shares to receive one certificate for all the shares of such proprietor, or one certificate for each of those shares or several certificates, each of which may be for any number of those shares.

Transfer of shares. 6. And it is hereby enacted, that any share or shares of the said Capital Stock may be transferred by indorsement made on the certificate for such share or shares by the proprietor of such share or shares, or by the Attorney of such proprietor duly authorized thereunto; provided always, that such indorsement shall specify the name of the party to whom the transfer is made; and provided also that no such indorsement shall be effectual to transfer any such share or shares until such indorsement shall have been registered in a Register to be kept for that purpose at the office of the said Association, and until a note of such registration, and of the date thereof, shall have been made on the back of the indorsed certificate under the hand of an officer appointed for that purpose by the Directors of the said Association.

Proprietors of shares to be members of Association. 7. And it is hereby enacted, that every proprietor of a share of the said Capital Stock, who shall cease to be a proprietor of such Stock, shall cease to be a member of the corporation created by this Act; and that every person who shall become a proprietor of the said Capital Stock, shall become a member of the corporation created by this Act; and shall, in respect of his share or shares of the said Capital Stock, be under the same liabilities under which an original proprietor of the said Capital Stock would be.

First Directors of Association. 8. And it is hereby enacted, that the business of the said Association shall be managed by six Directors, and that Francis Macnaghten, Joseph Walker, Jasper Ouseley, Richard Howe Cockerell, Alexander Colvin, Joseph Willis, and James Church, Esquires, shall be the first Directors of the said Association.

Removal and election of Directors. 9. And it is hereby enacted, that every Director of the said Association may be removed by a general meeting of the proprietors, and that every future Director of the said Association shall be elected by such a general meeting.

10. And it is hereby enacted, that a rotation among the Directors of the said Association shall be settled by lot, so that two of the said Directors may go out of office on the Monday following the 15th day of May, in every year, and that on the Monday following the 15th day of May, in every year, a general meeting of proprietors shall be held, at which two Directors shall be chosen, and that no Director going out by such rotation shall be capable of being re-elected, till the Monday after the 15th of May in the year next following

Directors to go out by rotation.

11. And it is hereby enacted, that if any Director of the said Association shall cease to be a Director, otherwise than by the operation of the rule of rotation aforesaid, the Directors of the said Association shall, with all convenient speed after such public notice as is hereinafter directed, call an extraordinary general meeting of the proprietors for the purpose of choosing a successor, and such successor shall come into the same place in the rotation aforesaid in which the Director whom he has succeeded was

Election of successor, when Director ceases to be so otherwise than by rotation

12 [*Qualifications of Directors*] *Rep by Act V of 1854, s 1*

13. And it is hereby enacted, that no person shall be capable of being a Director of the said Association, unless he be resident within the Territories subject to the Presidency of Fort William in Bengal

Directors to be residents of Bengal Presidency

14. [*Ordinary meetings*] *Rep by Act V of 1854, s 1*

15 And it is hereby enacted, that any ordinary general meeting of the said Association may adjourn itself to a future day, and may, on the day to which it shall have so adjourned itself, resume its proceedings, and transact any business which it would have been competent to transact on the day when it originally assembled

Adjournment of ordinary meetings

16 And it is hereby enacted, that extraordinary general meetings of the said Association shall be held according to such rules as may be made for that purpose, in the Bye laws of the said Association, provided always, that no such extraordinary general meeting shall be held without a previous notice of not less than fourteen days, which notice shall be published in not less than two newspapers printed at Calcutta

Extraordinary general meetings

17. And it is hereby enacted, that at General Meetings of the Proprietors, every election and question shall be decided by a majority of votes, and that no proprietor shall be allowed to vote unless he be possessed of two or more shares of the Capital Stock of the said Association which shares shall have been registered in his name not less than three calendar months before

Voting at general meetings Qualifications for voting

18. And it is hereby enacted, that at such general meetings, no proprietor shall have more than eight votes, and that the proprietors shall vote according to the following scale —

Number of votes to which proprietors are entitled

2 Shares shall entitle to	1 Vote
4 ,, ,, ,,	2 Votes
6 ,, ,, ,,	3 ,,
10 ,, ,, ,,	4 ,,
20 ,, ,, ,,	6 ,,
35 ,, ,, ,,	7 ,,
50 , ,, ,,	8 ,,

Votes of joint proprietors of shares.

19. And it is hereby enacted, that if more persons than one, being partners in trade, shall be joint proprietors of two or more shares of the said Capital Stock, and shall agree to give a joint vote or joint votes, such joint vote or joint votes, shall be received in all respects as the vote or votes of a single proprietor would be received.

Voting by proxy.

20. And it is hereby enacted, that every proprietor entitled to vote at any general meeting may give a proxy in writing, general or special, limited or unlimited, and signed by himself or by his attorney duly authorized thereunto, to any other proprietor; and that the proprietor to whom the proxy is given, may vote on behalf of the proprietor who had given the proxy, according to the terms of such proxy.

Authority of Directors.

21. And it is hereby enacted, that the Directors of the said Association shall have authority to expend the money of the said Association for the purpose of purchasing and erecting ware-houses, and of ware-housing and bonding goods therein, and to make and fulfil contracts for the said purpose, and to appoint and remove such servants as may be necessary for the said purpose and generally to manage all the concerns of the said Association, subject to such rules as may be laid down in the Bye-laws of the said Association, and to keep the Seal of the said Association, and to use the said Seal in the affairs of the said Association, provided always, that the said seal shall never be affixed to any instrument except in the presence and by the consent of three Directors, who shall sign their names on every such instrument in token of their presence and consent.

Calls for share money.

22. And it is hereby enacted, that the Directors of the said Association shall have authority to call on the proprietors to pay such instalment or instalments as shall, together with the instalments already paid, amount to a sum not exceeding 50 per cent. on each share; and that no further call shall be made, except in consequence of a vote of a general meeting of the proprietors, authorising such further call; provided always that no proprietor shall be called upon to pay more in proportion to his share in the Capital Stock than any other proprietor.

Interest to run on each call.

23. And it is hereby enacted, that if any proprietor shall not pay any instalment which he is lawfully called upon to pay, in the manner described in the last Section, on the day appointed for such payment, the said Association shall have a claim against such proprietor for interest on the deficient sum, after the rate of 10 per cent. per annum; and that it shall be lawful for the Directors of the said Association to apply, in satisfaction of such instalment and of such interest, any dividend due to such proprietor, placing every dividend so applied to the credit of such proprietor with the said Association.

Application of dividend in satisfaction of unpaid calls.

Power to refuse to register transfer by defaulting proprietor.

24. And it is hereby enacted, that it shall be lawful for the Directors of the said Association to refuse to register the transfer of any share belonging to any proprietor who shall not have paid such instalment and interest as aforesaid; and that in case such instalment and interest shall not be paid within two months after notice to pay the same has been given by the said Directors to such proprietor, or to his attorney or attorneys duly authorised,

it shall be lawful for the said Directors to sell by public sale the share or shares of such proprietor, to such an extent as may be sufficient to satisfy such instalment and interest, and to grant, upon such sale, a new certificate or new certificates to the purchaser of such share or shares whereupon the former certificate or certificates for such share or shares shall become void, and if there be any surplus after such instalment and interest have been satisfied, such surplus shall be paid on demand to the proprietor of such share or shares, and shall, till demand, be credited in the books of the said Association to such proprietor, but no interest shall run thereon

Power to sell shares to satisfy calls, and issue fresh certificates

25. And it is hereby enacted, that all the provisions of Act No XXV of 1836, of the Governor General of India in Council, relating to private licensed Warehouses, shall be applicable to all Warehouses wherein the said Association shall receive bonded Goods

Extension of Act No XXV of 1836 to warehouses of Association

26. And it is hereby enacted, that it shall be lawful for the said Association to give general security, by bond, under the seal of the said Association, for payment of the full duties of importation on Goods, lodged in any Warehouse of the said Association, or for the due exportation of such Goods, and if the said Association shall give such bond, no security shall be required from any other party to the same effect

Power to give general security for payment of import'l and export duties

27. And it is hereby enacted, that the Directors of the said Association shall, from time to time, fix the rates at which the said Association will Warehouse Goods and receive Goods at its Wharfs, and that a table of such rates shall be placed at every Warehouse and Wharf of the said Association

Rates for warehousing

28. And it is hereby enacted, that as often as any Goods are lodged in any Warehouse of the said Association, the Secretary of the said Association shall deliver a warrant signed by him as such Secretary, to the person lodging such Goods, which warrant shall be, as nearly as possible, in the form set forth in Schedule II annexed to this Act, and such warrant shall be transferable by indorsement, and shall entitle any person to whom it may have been so transferred by endorsement, to receive the Goods specified in such warrant, on the same terms on which the person who originally lodged those Goods would have been entitled to receive the same

Certificates of deposit, transferable by endorsement

29. And it is hereby enacted, that all suits brought against the said Association shall be brought in the Supreme Court of Judicature at Fort William in Bengal and not elsewhere

Suits against Association

30. And it is hereby enacted, that all the Joint Stock of the said Association of what kind or description soever, and all the Land, Warehouses, Messuages, Tenements, Hereditaments, Premises and Property acquired therewith, of which the said Association shall become in any manner possessed, entitled to, or interested in, shall be held and enjoyed by the proprietors thereof, and their successors respectively, as Personal Estate, or as in the nature of Chattel Interests, and not as, or in the nature of, Real Estate

Joint Stock of Association

31. And it is hereby enacted, that in order to define the liability of Proprietors of shares, and to save harmless themselves and their respective Heirs, Executors, Administrators, Representatives and Assigns, no Proprietor,

Individual members not to be liable

his Heirs, Executors, Administrators, Representatives or Assigns, shall be personally liable to any person or persons whatsoever by reason of being a Proprietor in any event, or for or on account of any acts, deeds, contracts or liabilities of the said Association, or of the Directors or Secretary thereof respectively, or under or by virtue of any judgment or decree in any action or suit, but that the party or parties having any legal or equitable demand or claim for or on the account last aforesaid, or having obtained such judgment or decree as last aforesaid, shall and may only recover the amount of such demand, claim, judgment or decree from and out of or to the whole extent of the paid up Capital, accumulated Funds, Lands, Messuages, Tenements, Hereditaments and Premises whatsoever and wheresoever, which may at the time belong to the said Association, or to which they may at the time be entitled.

32. [*Bye-laws.*] *Rep. by Act V of 1854, s. 1.*

Increase of Capital Stock.

33. And it is hereby enacted, that it shall be lawful for the said Association to increase its Capital Stock; provided always that no such increase shall take place unless it be authorized by a vote of two extraordinary general meetings of Proprietors specially convened for that purpose, of which meetings the second shall be held not less than three calendar months after the first.

Option to original proprietors to subscribe in first instance.

34. And it is hereby enacted, that in the event of such increase, the Proprietors of the original Stock shall not be bound to subscribe, but shall in the first instance have the option of subscribing for the increased Capital Stock in proportion to the share which each has of the original Capital Stock; and so much of the additional Capital Stock as shall not be subscribed for by the said Proprietors of the original stock, within one year after the passing of the final resolution for the increase, shall be open to the public, and be sold, for the benefit of the said Association, by public sale.

Provisions of Act to apply to additional Stock.

35. And it is hereby enacted, that all the rules laid down in this Act respecting the original Capital Stock of the said Association, shall be applicable to any additional Stock which may be subscribed in the manner hereinbefore described.

East India Company to have right of pre-emption.

36. And it is hereby enacted, that if the said Association shall be desirous to dispose of any premises purchased by the said Association from the East India Company, the said East India Company shall have the right of pre-emption, and the price shall be fixed by two appraisers, the one named on the part of the said East India Company, and the other by the Directors of the said Association; and if the said appraisers shall not agree on a price, the price shall be fixed by an umpire named by the said appraisers.

37. [*Dissolution of Association by order of the Governor General in Council.*] *Rep. by Act V of 1854, s. 1.*

Dissolution of Association by resolution of proprietors.

38. And it is hereby enacted, that the said Association may at any time be dissolved by a resolution to that effect of two-thirds in number and value of the proprietors qualified to vote at two successive extraordinary meetings specially called for the purpose of taking into consideration the expediency of such dissolution; provided that not less than three months shall have elapsed between the first and second of such two extraordinary meetings.

Division of property on dissolution.

39. And it is hereby enacted, that whenever the dissolution of the said Association shall be ordered either by the [1][Central Government], or by a vote of the said Association, the Directors of the said Association shall cause all the property of the said Association to be converted into money, and shall divide whatever surplus may remain after satisfying the debts of the said Association among the proprietors in proportion to the shares which the proprietors have in the Capital Stock of the said Association, and after such distribution the said Association shall forthwith be dissolved

SCHEDULE No I

LIST OF PROPRIETORS OF SHARES

R H Cockerell
W Speir
W Martin
R Speir
T Spier
J S Brownrigg
J Cockerell
G G de H Larpent
J St Pourcain
J M Dove
Gungapersaud Gossain
Ramchunder Seal
J Willis
W Earle
D Willis
T Willis
J Master
G C S Master Lieut
Trustees of Mrs Limond s Marriage Settlement
J W J Ouseley, Captain
G A Prinsep
W Barrington Captain
T C Robertson
Ramdas Dey
Bonomalee Mullick
A Muller
Charles Trebeck
T Bowring
J W Alexander
T B Swinhoe
Robert Swinhoe
A Dobbs
John Watson
Taraneechurn Chatterjee
G Herklots Junior
T O Wells
C Lancaster
C Lancaster Trustee for Mrs Cornish s Marriage Settlement
George Dougal
John Richards
Bruce Shand & Co
G W A Lloyd Lt Col
W Freeth Captain
James Colquhoun
James Church
Edward Harding
Henry Moore
R Watson
Mrs B Betty
Henry Mackenzie
Adam Scott and Co
Holodhur Chowdry
Charles S Gover
K B Mackenzie
S R Crawford
T A Shaw
W A Shaw
H Walters
J Innes
W Adam
Joseph Worthington
James Cullen
J C Palmer
A Colvin
W Ainsl e
H Cowie
T S Anquetil Lt Col
W H Martin
A Irvine Major
W A Peacock
J A Moore Major
T W Burt
William Braddon
Francis Macnaghten
Carr Tagore and Co
W Carr Trustee for Mrs Dick s Marriage Settlement
Robert Lyall
Moheshchunder Mitter
Prawnkisto Doss
Conai Lal and Mukun Lal
J Postan Junior
J H Rostan
Madobchunder Sandell
Dyalchaund Bysack
Gopeekissen Paul
Ditto for Mrs A G Glass
Ditto for E B Squire, Junior
Charles Lyall
John Lyall
David Lyall
W T Dawes
Colville Gilmore & Co
Alexander Rogers
J H Crawford
A Porteous
J Mackey & Co
James Mackenzie
P J Sarkies
G Collier
R Bird
J Ranken M D
Brijobullub Doss & Gocul Doss
A S Stopford
A Beattie
Wilson Frith & Co
G C Arbuthnot
A Jackson
A S Gladstone
J Craigie Lieut Col
J Williams
J B Higginson
Megnarain Roy
Ramnarain Mookerjee
Doorgachurn Mookerjee
Gowrichurn Mookerjee
I B Biss
J S Biss
Rogoonath Coondo
W F Gibbon
J Cock
H F King
James Hill
W Rushton
A J Sturmer
Boloram Day
Obhoychurn Mookerjee
Bolychaund Bysack
Mrs Sarah Moss
W Barrett
Hurrimohun Mookerjee
Mohunchunder Ghose
Horrimohun Banorjee
Kistnomohun Seal
Hurrochunder Bose
J P Marcus
Mrs Bruce
Miss L W Bruce

[1] Subs by the A O for G G of India in C

SCHEDULE No. I—*contd.*

LIST OF PROPRIETORS OF SHARES—*contd.*

Joseph Bruce.
Charles C. Bruce.
Debnarain Day.
William Bruce, Trustee for Mrs. Col. Lloyd.
W. Ryland.
M. Hughes, Captain.
Annundchunder Mitter.
J. A. Walker.
T. Hyde Gardiner.
J. C. Owen.
Doorgachurn Bose.
Rajkissore Lahory.
Gourmohun Coondoo.
S. Hornby.
Hurrischunder Bose.
Ramsoonder Mullick.
Rajchunder Ghose.
Radanauth Dutt.
H. Barrow.
Godadhur Mitter.
E. D'Cruz.
Goluckchunder Dur.
Luckinarain Day.
T. Blechynden.
W. Stacy.
J. George.
Mrs. C. Shelverton.
C. Shelverton.
Cassinauth Banorjee.
P. S. D'Rozario.
J. D' M. Sinaes, in Trust for Miss J. F. Speed.
Gorachaund Bose.
J. E. Dunn.
D. W. H. Speed.
Rajkissen Dey.
Jomejoy Bhose.

SCHEDULE No. II.

CALCUTTA BENGAL BONDED WAREHOUSE ASSOCIATION.

I do hereby Certify that..................have deposited in the Warehouse of the Association the undermentioned Goods...............which Goods, the Association engage on demand, after payment of rent and incidental charges and Government dues or customs chargeable thereon, to deliver to the said....................or their Assigns, or to the holder of this warrant to whom it may be transferred by indorsement.

Secretary.

[1][THE BOMBAY COURTS OF ADALAT ACT, 1838.]

ACT No. XVI OF 1838.

[*23rd July, 1838.*]

Suit to be brought in Civil and not Revenue Courts.

1. *First.* [2]* * * * * In the territories subject to the Presidency of Bombay, all suits in regard to tenures, and the nature and extent of the interest and advantage which in virtue thereof should be enjoyed by the parties concerned, and all suits in which the right to possession of land [3]* * * * * * is claimed, shall be brought in the Courts of Adálat and the Courts subordinate thereto, and not in the Courts of revenue.

[1] Short title given by the Bombay Short Titles Act, 1921 (Bom. 2 of 1921). This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Bombay Presidency except the Scheduled Districts.
[2] The words and figures " It is hereby enacted, in modification of the rules contained in Chapter VIII, Regulation XVII of 1827 of the Bombay Code, that " rep. by the Repealing Act, 1870 (14 of 1870).
[3] The words " or of the wuttuns of hereditary district or village officers " rep. by the Bombay Revenue Jurisdiction Act, 1876 (10 of 1876).

Second —[Summary jurisdiction of Revenue Courts in giving possession] Rep by the Mamlatdars' Court Act, 1876 (Bom Act III of 1876)

Third —[Saving of certain jurisdiction of Revenue Courts] Rep by Bom Act II of 1866

Procedure on suits being presented to superior Court doubting its jurisdiction,

2. [1]* * * * * If a suit be presented in the Court of a Judge or Collector, which such Judge or Collector shall not deem within his jurisdiction, the party presenting such suit shall be referred by the Court in which it may be first presented to that in which, in the opinion of such Court, the jurisdiction lies, and the latter Court shall, in the event of its doubting its jurisdiction in the case refer the question of jurisdiction to the Sadr Diwáni Adálat whose decision on the point shall be final

and in subordinate Court so doubting

3. [1]* * * * * * If a suit be presented in any Court subordinate to the Court of a Judge or Collector, which suit such subordinate Court shall not deem to be within its jurisdiction, such subordinate Court shall submit the case to the Judge's or Collector's Court to which such subordinate Court is subordinate, and, if the superior Court to which the case is so submitted shall be of opinion that such subordinate Court has jurisdiction in the case, such superior Court shall direct such subordinate Court to proceed with the case, and, if such superior Court shall be of opinion that such subordinate Court has not jurisdiction in the case, such superior Court shall proceed in the manner directed in the last preceding section

Transfer of suit entered in Court not having jurisdiction

4 [1]* * * * * Whenever a Court of Adálat or a Revenue Court shall have entered on its file, under this Act, a suit in which it has not jurisdiction, it shall be competent to the Sadr Diwáni Adálat, either on a reference from the Judge or Collector (as the case may be), or on application from the parties, to direct that the suit be transferred, with all the proceedings which may have taken place therein up to the period of transfer, to the Court possessing jurisdiction, which shall proceed therewith as if the suit had been originally filed in that Court

Procedure on Court of Appeal finding [illegible]

5 [1]* * * * When any Court trying an appeal finds that the action was originally brought and decided in a Revenue Court, when it ought to have been brought and decided in a Court of Adálat, or a Court subordinate thereto, or that the action was originally brought and decided in a Court of [illegible], or a Court subordinate thereto, when it ought to have been brought and decided in a Revenue Court the Court trying the appeal shall, instead of [illegible] the whole proceedings, annul only the decree and refer the [illegible] to the Court to which the jurisdiction properly belongs [2]* * * * * *, and the Court trying any such case referred under the [illegible] take further pleadings, exhibits and evidence only if [illegible], and shall pass a new decree [2]* * * * * *

[1] The words And it is hereby enacted, that [illegible] 1874)

[2] The words without further costs of stamps to the [illegible] such should be allowed to be filed', and the words [illegible] decree by the party originally bringing the appeal, [illegible] new appeal shall be passed without the cost of a new stamp [illegible] party rep by the Repealing Act, 1870 (14 of 1870)

6. [*Pending suits and appeals.*] *Rep. by the Repealing Act, 1874 (XVI of 1874).*

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[1][THE BOMBAY COASTING-VESSELS ACT, 1838.]

ACT NO. XIX OF 1838.

[*27th August, 1838.*]

1. [*Repeal of enactments.*] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

Rules as to coasting and other vessels belonging to Queen's subjects.

2. [2]* * * * * * The following rules shall be in force with respect to vessels belonging to any of Her Majesty's subjects residing within the Presidency of Bombay, and employed on the coasts of the territories subject to the Government of Bombay, or in trading coastwise, as also with respect to fishing-vessels and harbour-craft belonging to any of the same Her Majesty's subjects.

Marking or branding vessels with name of place and number.

3. [2]* * * * * * Every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall be marked or branded with the name of the place to which she belongs, and also with a number assigned for the same by the officer authorised to make such registry as is hereinafter mentioned;

Owner to paint name and number.

and the owner or owners of such vessel employed as aforesaid, fishing-vessel and harbour-craft shall cause such name and number to be painted in black paint upon a white ground on each quarter of such vessel employed as aforesaid, fishing-vessel and harbour-craft, in English figures and letters, each figure and letter being six inches in length.

Registry of name, number and burthen.

4. [3]* * * * * * The name and number of every such vessels employed as aforesaid, fishing-vessel and harbour-craft, and her burthen, and also the name or names of the owner or owners thereof, shall be registered in a book to be kept for that purpose by the person hereinafter directed to make such registry.

Registry by whom to be made.

At Bombay such registry shall be made by the Master-Attendant, and at other places within the said territories by the Collector of Sea-customs at such places respectively, or by such other person as shall be appointed by the [4][Central Government] to act at such places respectively, in the execution of this Act; and whenever any change shall take place in the burthen of such vessel employed as aforesaid, fishing-vessel or harbour-craft, or in the name or names of the owner or owners thereof, such registry shall be made again:

Fresh registration.

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[1] Short title given by the Bombay Short Titles Act, 1921 (Bom. Act 2 of 1921). This Act was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Bombay Presidency, except the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Province of Sind—*see* Gazette of India, 1880, Pt. I, p. 672.

[2] The words and figures "And it is hereby enacted, that from the said first day of November, 1838," and the words "And it is hereby enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).

[3] The words "And it is hereby enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).

[4] Subs. by the A. O. for "Govt. of Bombay".

Provided, however, that it shall not be lawful to give any name to such vessel employed as aforesaid, fishing vessel or harbour craft, other than that by which she was first registered

Owners to apply for registry

5. [1]* * * * The owner or owners of every such vessel employed as aforesaid, fishing vessel and harbour craft shall apply to the person authorized to make such registry in respect of the same, in order to have such registry as aforesaid made, or in order to have such registry made again as aforesaid

Information of registry a subordinate port

And whenever such vessel employed as aforesaid, fishing vessel or harbour craft is registered at a subordinate port, information thereof, and of the number there assigned to her, shall immediately be given by the registering officer to the Master Attendant at Bombay

Officers to perform duty of marking and branding

6. [1]* * * * * The duty of marking or branding and of ascertaining the burthen of such vessels employed as aforesaid, fishing vessels and harbour craft, at Bombay, shall be performed by the Master Attendant, and at all other places within the territories subject to the Government of Bombay, the duty of marking or branding and of ascertaining the burthen of such vessels employed as aforesaid, fishing vessels and harbour craft shall be performed by the Collector of Sea customs at such places respectively, or by such other persons as shall be appointed by the [2][Central Government] to act at such places respectively, in the execution of this Act

Owner to obtain certificate of registry

7. [1]* * * * * The owner or owners of every such vessel employed as aforesaid, fishing vessel and harbour craft shall apply for and obtain a certificate of registry from the person authorised to make such registry as aforesaid, and such certificate shall be in the form specified in the Schedule appended to this Act, and in the case of any certificate being lost or destroyed, a renewed certificate may be obtained in the same manner and on payment of the fees hereinafter mentioned

Replacing lost certificate

Sealing certificate

8 [1]* * * * * Such certificate of registry shall be sealed with the seal of the East India Company, and shall be signed by the person authorized to make such registry

9. [*Dates for commencement of certificate and registration*] *Rep by the Repealing Act, 1876 (XII of 1876)*

Fees for certificates.

10. [1]* * * * * The owner or owners of such vessels employed as aforesaid (fishing vessels and harbour craft being excepted), on being registered as aforesaid, shall pay—

for each certificate of registry for a vessel not exceeding 20 Bombay khandis burthen the fee of	1 rupee
for each certificate for a vessel exceeding 20 such khandis burthen and not exceeding 100 khandis burthen	5 rupees
for each certificate for a vessel exceeding 100 such khandis burthen and not exceeding 400 khandis burthen	7 rupees
and for each certificate for a vessel of 100 tons or greater burthen per ton	2 annas

Fees to be credited to Government

11. [1]* * * * * The person or persons so authorized to make such registry as aforesaid shall receive the fees payable for the same, and shall

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[1] The words "And it is hereby enacted that" rep by the Repealing Act, 1874 (16 of 1874)

[2] Subs by the A O for "Government of Bombay"

pay such fees to such officer as the [1][Central Government] shall appoint; the same to be carried to the credit of the [2][Central Government]:

[3][Provided that any such fees as immediately before the commencement of Part III of the Government of India Act, 1935, were, under this Act as 2
then in force to be carried to the credit of the Local Government shall be paid to such officer as the Provincial Government may appoint and be carried to the credit of that Government.]

Production of certificate on demand.

12. [4]* * * * * The owner or owners or commander of every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall produce, on demand thereof by any officer of the Customs within the said territories, or by any officer of the [5]*Navy, the certificate so directed to be applied for and obtained, in respect of such vessel employed as aforesaid, fishing-vessel or harbour-craft, as above mentioned.

Penalty for neglect to comply with rules.

13. [4]* * * * * In case any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not be so marked or branded in all respects as hereinbefore directed, or in case the name and number of any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not be so painted, or shall not continue so painted on such vessel employed as aforesaid, fishing-vessel or harbour-craft, in all respects as hereinbefore directed;

or in case any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not be furnished with such certificate as hereinbefore specified, or in case the owner or owners or commander of any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not produce such certificate on demand thereof as hereinbefore directed;

the owner or owners of every such vessel employed as aforesaid shall be subject to a fine of ten times the amount of the fees payable in respect of the certificate of registry of such vessel, the same being a vessel for the certificate of the registration of which any fee is payable; and the owner or owners of any such fishing-vessel or harbour-craft shall be subject to a fine of ten rupees;

Recovery of penalties.

which fines may be recovered on conviction before any Magistrate [6]* * * * * having jurisdiction within the said territories, by sale of such vessel, fishing-vessel or harbour-craft, her furniture, ammunition, tackle and apparel;

Penalty on repetition of default.

and such fines shall be payable as often as the owner or owners or commander of any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall make such default as aforesaid: Provided every such subsequent default be made after the expiration of one month from the date of the last conviction.

Power to direct com-

14. [4]* * * * * The [1][Central Government] may direct compensation for trouble and diligence in seizing such vessel employed as afore-

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[1] Subs. by the A. O. for "Governor of Bombay in Council".
[2] Subs. by the A. O. for "Government of Bombay".
[3] Ins. by the A. O.
[4] The words "And it is hereby enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).
[5] The word "Indian" rep. by the Repealing Act, 1876 (12 of 1876).
[6] The words "Justice of the Peace, or person exercising the powers of a Magistrate" rep. by *ibid.*

said, fishing vessel or harbour craft, guns, furniture, tackle, ammunition and apparel, as last mentioned, to be made, out of the proceeds of such seizure to the person or persons who shall have seized the same, to such amount, in such manner and in such shares or proportions, as to the said [1][Central Government] shall seem meet.

pensation for trouble in seizing

15. [*Port-clearance*] *Rep by the Repealing Act, 1876 (XII of 1876)*

[2]SCHEDULE

This is to certify that (*here insert the names, occupation and residence of the owners*) having declared that (he *or* they) are sole owner or owners of the vessel (fishing vessel *or* harbour craft) called (*the name*) which is of the burthen of (*number of Bombay khandis*) and that the said vessel (fishing-vessel *or* harbour craft) was (*where and when built*), the said vessel (fishing vessel *or* harbour craft) has been duly registered at the port of (*name of port*)

Certified under my hand.

(*Signature of Officer.*)

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[3][THE BOMBAY HAQQA PROHIBITION ACT, 1839]

ACT No. XX OF 1839.

[*29th July, 1839*]

1. [4]* * * * * It shall be lawful for the [5][appropriate Government] to issue orders prohibiting the levy of haqqs and fees of every description, and customs, whether by land or sea, enjoyed by holders of rent-free lands or other persons, and of alienated shares of any item of revenue after the abolition or relinquishment thereof by Government

Power to prohibit levy of haqqs, fees and customs

2. [4]* * * * * The legality of any orders which may have been heretofore issued, or of any orders which, conformably with this Act, hereafter shall be issued, by the [5][appropriate Government], for prohibiting the levy of any such haqqs, or fees, customs or alienated shares of any such item of revenue as aforesaid, shall not be questioned in any Court of law.

Past and future prohibitions not to be questioned by any Court

3. [4]* * * * * Whoever shall levy any such haqq, fee, customs or item of revenue after any such order prohibiting the same as aforesaid

Penalty for levy after prohibition

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[1] Subs by the A O for "G in C".
[2] *See* s 7 *supra*
[3] Short title given by the Bombay Short Titles Act, 1921 (Bom 2 of 1921)
This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 5, to be in force in the whole of the Bombay Presidency, except the Scheduled Districts It has been declared by [illegible] be in force in [illegible]
he [illegible] "And it is
[illegible] of Bombay".

In every such case the provisions of this Act shall take effect only in respect to such land and other property as may be so transferred.

Government not to hold charge henceforth of property for support of any mosque, temple, etc.

22. Except as provided in this Act, it shall not be lawful [1] * * * * for any Government in India, or for any officer of any Government in his official character,

to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any mosque, temple or other religious establishment, or

to take any part in the management or appropriation of any endowment made for the maintenance of any such mosque, temple or other establishment, or

to nominate or appoint any trustee, manager or superintendent thereof, or to be in any way concerned therewith.[2]

Effect of Act in respect of Regulations therein mentioned, and of buildings of antiquity, etc.

23. Nothing in this Act shall be held to affect the provisions of the [3]Regulations mentioned in this Act, except in so far as they relate to mosques, Hindu temples and other religious establishments; or to prevent the Government from taking such steps as it may deem necessary, under the provisions of the said regulations, to prevent injury to and preserve [4]buildings remarkable for their antiquity, or for their historical or architectural value or required for the convenience of the public.[2]

"India."

[5][**24.** The word " India " in this Act shall mean British India.]

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[6][THE WASTE LANDS (CLAIMS) ACT, 1863.]

CONTENTS.

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[1] The words " after the passing of this Act " were rep. by the Repealing Act, 1874 (16 of 1874).
[2] A proviso to s. 22 and a new section 23-A have been added to apply only to Bengal by the Bengal Waqf Act, 1934 (Ben. 13 of 1934).
[3] Namely the Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810 (Ben. Reg. 19 of 1810), and the Madras Endowments and Escheats Regulation, 1817 (Mad. Reg. 7 of 1817).
[4] *See* now also the Ancient Monuments Preservation Act, 1904 (7 of 1904).
[5] Subs. by the A. O. for original section.
[6] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

SECTIONS

ACT No. XXIII OF 1863.[1]

[*10th March, 1863.*]

An Act to provide for the adjudication of claims to waste lands.

Preamble.

WHEREAS it is expedient to make special provision for the speedy adjudication of claims which may be preferred to waste lands proposed to be sold, or otherwise dealt with, on account of [2][the Provincial Government], and of objections taken to the sale or other disposition of such lands; It is enacted as follows:—

Provision for enquiry in claims

1. When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of [2][the Provincial Government],

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[1] For Proceedings relating to the Bill, *see* Calcutta Gazette, 1863, Supplement, p. 109.

This Act has been declared to be in force in the whole of British India except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

West Jalpáiguri	*See* Gazette of India,	1881, Pt. I, p. 1.
The Districts of [illegible] L[illegible]hárdaga (now the [illegible], *see* Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	Ditto	1881, Pt. I, p. 504.
The Porahat estate in the Singbhum District	Ditto	1897, Pt. I, p. 1059.
Kumáon and Garhwál	Ditto	1876, Pt. I, p. 605.
The Scheduled portion of the Mirzápur District	Ditto	1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.
The Districts of Hazára, Peshávar, Kohát, Bannu, Dera Ismail Khán and Dera Gházi Khán. [*Portions of the Districts of Hazára, Bannu, Dera Ismail Khán and Dera Gházi Khán and the Districts of Peshávar and Kohát now form the N. W. F. P.*, see *Gazette of India, 1901, Pt. I, p. 857 and* ibid, *1902, Pt. I, p. 575; but its application to that part of the Hazára District known as Upper Tanawal has been barred by the Hazára (Upper Tanawal) Regulation, 1900 (2 of 1900)*]	Ditto	1886, Pt. I, p. 48.
The District of Lahaul	Ditto	1886, Pt. I, p. 301.
The District of Sylhet	Ditto	1879, Pt. I, p. 631.
The Districts of Kámrup, Naugong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Duárs) and Cachar (excluding the North Cachar Hills)	Ditto	1878, Pt. I, p. 533.

It has been declared under s. 3 (*b*) of the same Act not to be in force in the Scheduled Districts in Ganjam and Vizagapatam, *see* Gazette of India, 1898, Pt. I, p. 872.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely :—

Western Duárs	*See* Gazette of India,	1875, Pt. I, p. 497.
The Tarái of the Province of Agra .	Ditto	1876, Pt. I, p. 505.

[2] Subs. by the A. O. for "Govt.".

or when any objection shall be taken to the sale or other disposition of such land, the Collector of the district in which such land is situate, or other officer performing the duties of a Collector of Land Revenue in such district by whatever name his office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objections *to land or objections to sale of same*

2 The Collector or other officer as aforesaid shall call upon the claimant or objector to produce any evidence, or documents upon which he may rely in proof of his claim or objection, and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection and if the land is proposed to be sold, for the sale of the same subject to any condition or reservation which, to such Collector or other officer as aforesaid, shall appear to be proper *Procedure in such cases.*

If the land is ordered to be sold subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale *Notification of conditions.*

3 Pending an enquiry into any claim or objection under the last preceding section, the Collector or other officer as aforesaid shall postpone the sale or other disposition of the land, *Postponement of sale pending enquiry*

and if he shall order that such claim or objection be rejected he shall further postpone the sale or other disposition of the land to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided *to allow claimant to contest rejection of claim*

4 If the Collector or other officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land *Sale to be stopped if claim appear to be established but may afterwards be proceeded with.*

but such sale or other disposition of the land may afterwards be proceeded with if, on an order issued [1] * * * * * to try the claim or objection, as provided in section 6 of this Act, the claimant or objector shall fail to establish the same

5 If the Collector or other officer as aforesaid shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector, *Delivery to claimant of copy of order of rejection or of sale*

and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector or other officer as aforesaid for any special reason to be recorded shall see fit to grant, give notice in writing to such Collector or other officer as aforesaid that he intends to contest such order the order shall be final *Order when final.*

If the claimant or objector shall within the [illegible] allowed give [illegible] the Collector or other officer as aforesaid shall [illegible] make a [illegible] *Reference to Court.*

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[1] The words [illegible]
Part I

to the [1]* * * superior revenue authority [2][to which he is immediately subordinate] and shall forward with such report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection;

Decision of Board.

and such [3]* * authority, on the receipt of such report, and after calling for any further information which it may consider necessary, may confirm, modify or reverse the order of the Collector or other officer as aforesaid.

Certification to Court.

If the [3]* * authority as aforesaid confirm the order of the Collector or other officer as aforesaid, or modify such order in such manner as to leave any part of such order in force adverse to the claimant or objector, the Collector or other officer as aforesaid shall certify such order to the Court constituted as hereinafter provided;

Notice to claimant.

and such Court shall forthwith give notice to the claimant or objector;

Decision when final.

and if such claimant or objector shall not [4]* * * * institute a suit in such Court to establish his claim or objection, the order of the [3]* * authority aforesaid shall be final.

Power to order suit to try claim admitted by Collector.

6. The [5][Provincial Government] may, within twelve months after the date on which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the Collector or other officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided.

Special Court for trying claims.

7. For the investigation and trial of claims under this Act, the [5][Provincial Government] shall constitute, in every district in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of [6][the Provincial Government], a Court consisting of an uneven number of persons, not less than three, of whom the Judge of the district, or the officer presiding in the principal Civil Court of original jurisdiction in the district, by whatever name his office may be designated, shall be one.

Power of members.

Any one or more of the members of which such Court shall consist shall have power to make all such orders in the case as may be necessary prior to the hearing of the suit:

Exclusion of officer making original enquiry.

Provided that, whenever the Collector, or other officer, by whom the original enquiry was held, is the officer presiding in the principal Civil Court of original jurisdiction in the district, such officer shall not be a member of such Court.

Notice of constitution

8. Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in

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[1] The words "Board of Revenue or other" were rep. by the Decentralization Act, 1914 (4 of 1914), Sch. Part I.

[2] Ins. by *ibid.*

[3] The words "Board or other" were rep. by *ibid.*

[4] The words "within thirty days from the delivery of such notice from the Court" were rep. by the Indian Limitation Act, 1871 (9 of 1871). For limitation, *see* now the Indian Limitation Act, 1908 (9 of 1908).

[5] Subs. by the A. O. for "L. G.".

[6] Subs. by the A. O. for "Govt.".

the several Courts, and in the offices of the several Collectors and Magistrates of the district : *of Special Courts*

Claims not cognizable in other Courts.

and from the date of the issue of such proclamation no other Court shall be competent to entertain any claim or objection belonging to the class of claims or objections for the trial and determination of which such Court is constituted.

Special Court where held.

9. The Courts constituted under this Act shall be held at such place, or places, within the limits of their respective jurisdictions, as shall be considered most convenient.

Plaintiff and Defendant in suit under section 5.

10. In every suit instituted under section 5 of this Act, the claimant of the waste land, or objector to the sale or other disposition of such land, shall appear as plaintiff; and the Collector, or other officer aforesaid, shall appear as defendant on the part of [1][the Provincial Government]

Appearance.

Either party may appear by pleader or by agent :

Proviso.

Provided that if such other officer as aforesaid be the presiding officer of the principal Civil Court of original jurisdiction in the district, the [2][Provincial Government] shall appoint some other officer to appear as defendant in the case on its behalf.

Plaintiff and defendant in suits under section 6.

In any suit ordered to be instituted [3] * * * under section 6 of this Act, the [1][Provincial Government] by any officer, to be appointed for the purpose, shall appear as plaintiff, and the claimant or objector as aforesaid shall appear as defendant.

Regulation of proceedings.

11. In suits instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure.

Procedure before hearing.

12. The Court shall fix a day for the appearance of the parties, and for the hearing of the suit, of which due notice shall be given to the parties or their agents; and on the day so fixed, the parties or their agents shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements.

Procuring attendance of witnesses.

If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit, and the Court shall issue a subpoena requiring such witness to attend the Court on that day.

Power to require attendance of claimant.

It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

Procedure on hearing.

13. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties ;

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[1] Subs. by the A. O. for "Govt.".
[2] Subs. by the A. O. for "L. G.".
[3] The words "by the L. G." were omitted by S. 2, Part I of the Decentralisation Act, 1914 (4 of 1914).

and upon such examination, and after inspecting the documents of the parties, and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper.

No appeal or revision.

14. No appeal shall lie from any decision or order passed under this Act, nor shall any such decision or order be open to revision.

Reference of question of law, etc., to High Court, etc.

15. If, on the trial of any suit under this Act, any question of law or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court shall entertain reasonable doubts, the Court may, either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it, with its own opinion, for the opinion of the High Court of Judicature, or of the highest Civil Court of Appeal and Revision in the territory in which the land is situate;

When reference obligatory.

Provided that it shall be the duty of every Court held under this Act to make such reference to such High Court, or Court of Appeal, if, in any suit under this Act, any question shall arise involving any principle of general importance, or the rights of a class.

Court may proceed notwithstanding reference;

16. The Court may proceed in the case notwithstanding a reference to the High Court, or other highest Civil Court of Appeal as aforesaid; and may pass an order contingent upon the opinion of the High Court, or other Court as aforesaid, on the point referred;

but not make final order.

but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed, until the receipt of the order of the said High Court, or highest Civil Court of Appeal.

Records of cases where to be deposited.

17. The record of cases disposed of by Courts constituted under this Act shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the district in which the property in dispute is situate.

Limitation as to claims to land sold or dealt with.

18. No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account of [1][the Provincial Government] as waste land, shall be received after the expiration of three years from the date on which such land shall have been delivered by [1][the Provincial Government] to the purchaser, or otherwise dealt with.

'rovision or such laims if [illegible] [illegible] time.

If within three years after any lands have been delivered by [1][the Provincial Government] to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof, in the Court constituted under this Act for the district in which the land is situate; and shall show good and sufficient reason for not having preferred his claim or objection to the Collector or other officer as aforesaid, within the period limited under section 1 of this Act; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the district or other officer as aforesaid (with the like provision as aforesaid if such other officer be the presiding officer of the principal Civil Court of original jurisdiction in the district), the defendant in the suit;

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[1] Subs. by the A. O. for "Govt.".

and the foregoing provisions of this Act shall be applicable to the trial and determination of the suit

The report of the officer employed to give delivery, or to take possession, on the part of [1][the Provincial Government] of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken

If claim established, possession not to be given, but compensation.

19. In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute, but shall order him to receive from [2][the Provincial Government] Treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit

When land sold not absolutely, or not sold but otherwise dealt with.

20. If the land shall have been sold subject to any condition or reservation, or shall not have been sold, but shall have been otherwise dealt with on account of [2][the Provincial Government], and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established, the Court shall award the claimant or objector to receive such sum in respect of his interest in such land, as shall be awarded in that behalf under the provisions of [3]Act VI of 1857 (*for the acquisition of land for public purposes*),

and thereupon the [4][Provincial Government] shall proceed under the said Act to obtain an award of the value of such interest

Award under two last sections to be in full satisfaction.

21. An award under any of the provisions of the two last preceding sections shall be in full satisfaction of the claim of the claimant or objector, and shall bar any future claim on his part, in respect to the land in suit resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of [1][the Provincial Government.]

Government not barred from awarding compensation for land sold, though claim not preferred in time.

22. Nothing in this Act shall be held to prevent the [4][Provincial Government] from awarding, to any claimant of waste land sold on account of [1][the Provincial Government], on proof to the satisfaction of the [4][Provincial Government] of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other officer as aforesaid or to the proper Court constituted under this Act within the period prescribed by this Act), such amount as compensation for the said land, within the limit as to amount mentioned in section 19 of this Act, if the land have been sold not subject to any condition or reservation, as to such [4][Provincial Government] may seem proper

[illegible]

23. If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of [1][the Provincial Government] and any claim to such land, or objection to the sale or other disposition of the land, shall be proved to the satisfaction of the [4][Provincial Government], although not preferred to the Collector or other officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, the [4][Provincial Government] may award to such claimant or objector s[illegible]

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1 Subs. by the A. O. for "[illegible]"
2 Subs. by the A. O. for "the Govt."
3 [illegible]
4 Subs. by the A. O. for "[illegible]"

amount as to such [1][Provincial Government] may appear to be the value of the interest of such claimant or objector in such land.

Exercise of power of the Provincial Government by the Board of Revenue or the Financial Commissioner.

[2][**23-A.** In a Province for which there is a Board of Revenue or a Financial Commissioner, the powers and duties of the [1][Provincial Government] under sections 6, 10, 22 and 23 may be exercised by such Board or Financial Commissioner, as the case may be.]

24. [*Interpretation-clause. Number. Gender.*] *Rep. by Repealing and Amending Act, 1914 (X of 1914) S. 3 and Sch. II.*

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[3][THE FOREIGNERS ACT, 1864.]

CONTENTS.

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[1] Subs. by the A. O. for " L. G."
[2] Ins. by the Decentralization Act, 1914 (4 of 1914), Sch. Part I. S. 23-A has been omitted in its application to the U. P., *see* the U. P. Board of Revenue Act, 1922 (U. P. 12 of 1922).
[3] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

SECTIONS

13 License may be granted subject to conditions and may be revoked
14. Foreigner travelling without or contrary to the conditions of license may be apprehended
15 Procedure upon apprehension
Magistrate to report to Government
16 Persons apprehended, may be admitted to bail
17 Removal of persons apprehended
18 Central Government may prohibit persons not being natural born subjects from travelling or passing through any part of India without a license
19 [*Repealed*]
20 Certain officers may board vessels to ascertain whether foreigners are on board
Master of vessel to furnish list of passengers and to give information respecting them
Foreigner refusing to give account of himself, not to be allowed to disembark
21 Penalty for false answer or report
22 Penalty for neglect by master of vessel to comply with requisitions of Act
23 Penalty for obstructing officers
24 [*Repealed*]
25 Persons may be exempted from provisions of this Act

ACT No III OF 1864 [1]

[12th February, 1864]

An Act to give the Government certain powers with respect to Foreigners

WHEREAS it is expedient to make provision to enable the Government to prevent the subjects of Foreign States from residing or sojourning in British Preamble

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[1] For special direction from Parliament to pass this Act see s 84 of the Government of India Act 1833 (3 and 4 Will IV c 85) C II Stats Ind Vol I

For the Statement of Objects and Reasons of the Bill which became Act 3 of 1864 see Calcutta Gazette, 1863 p 2163; for Proceedings relating to the Bill see ibid Supplement p [illegible] and Gazette of India 1864 Supplement p [illegible]

The Act has been declared to be in force in the whole of British India except the Scheduled Districts by the Laws Local Extent Act 1874 (15 of 1874) s 3

It has been declared in force in—

the Santhal Parganas by the Santhal Parganas Settlement Regulation (3 of 1872) s 3
British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913) s 3
the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936) s 3 and Sch ; and
the Angul District by the Angul Laws Regulation 1936 (5 of 1936) s 3 and Sch

It has been declared by notification under s 3 (a) of the Scheduled Districts Act 1874 (14 of 1874) to be in force in the following Scheduled Districts namely —

Sind . See Gazette of India 1878 Pt I, p 41[illegible]

West Jalpaiguri, the Western Duars, the Western Hills of Darjeeling the Darjeeling Tarai, and the Damun Sub-division of the Darjeeling District . Ditto 1881, Pt I, p 7[illegible]

India, or from passing through or travelling therein, without the consent of the Government; It is enacted as follows:—

Interpretation.

1. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

[1]* * * * * * * * * * * * *

"Foreigner."

the word "foreigner" shall denote a person:—

[2][(*a*) who is not a natural born British subject as defined in sub-sections (*1*) and (*2*) of section 1 of the British Nationality and Status of Aliens Act, 1914, or

(*b*) who has not been granted a certificate of naturalisation as a British subject under any law[3] for the time being in force in British India:

Provided that any British subject who, under any law for the time being in force in British India, ceases to be a British subject, shall thereupon be deemed to be a foreigner.]

The Districts of Hazáribagh, Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44, and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum . . .	*See* Gazette of India,	1881, Pt. I, p. 504.
The Porahat Estate in the Singbhum District	Ditto	1897, Pt. I, p. 1059.
The Scheduled portion of the Mirzapur District	Ditto	1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.
The Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismail Khán, and Dera Gházi Khán. [*Portions of the Districts of Hazára, Bannu, Dera Ismail Khán and Dera Gházi Khán and the Districts of Pesháwar and Kohát now form the N.-W. F. P.*, see *Gazette of India, 1901, Pt. I, p. 857, and* ibid, *1902, Pt. I, p. 575; but its application in that part of the Hazára District known as Upper Tanawal has been barred by the Hazára (Upper Tanawal) Regulation, 1900 (2 of 1900)*] . . .	Ditto	1886, Pt. I, p. 48.
The District of Lahaul	Ditto	1886, Pt. I, p. 301.
The Scheduled Districts of the C. P. .	Ditto	1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
The District of Sylhet	Ditto	1879, Pt. I, p. 631.
The rest of Assam (except the North Lushái Hills)	Ditto	1897, Pt. I, p. 299.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumaon and Garhwal	*See* Gazette of India,	1876, Pt. I, p. 606.
The Tárai of the Province of Agra .	Ditto	1876, Pt. I, p. 505.

[1] Definitions of "British India" and "L. G." rep. by the A. O.

[2] Substituted for "not being either a natural-born subject of Her Majesty within the meaning of the Statute 3 and 4 William IV, Chap. 85, section 81, or a Native of British India" by the Foreigners (Amendment) Act, 1915 (3 of 1915), s. 2.

[3] See the Indian Naturalization Act, 1926 (7 of 1926).

the words "the Magistrate of the district" shall denote the chief officer charged with the executive administration of a district and exercising the powers of a Magistrate, by whatever designation the chief officer charged with the executive administration is styled, or, in the absence of such officer from the station at which his Court is usually held, the senior officer at the station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure : "Magistrate of the district."

[1]the word "vessel" shall include anything made for the conveyance by water of human beings or property "Vessel."

[2]* * * * * * *

2. If a question shall arise whether any person alleged to be a foreigner and to be subject to the provisions of this Act is a foreigner or not, or is or is not subject to the provisions of this Act, the onus of proving that such person is not a foreigner, or is not subject to the provisions of this Act, shall lie upon such person. Proof of being a foreigner.

3. The [3][Central Government] may, by writing, order any foreigner to remove himself from British India, or to remove himself therefrom by a particular route to be specified in the order, [4]* * * Government may order any foreigner to remove himself.

[5][3A. (1) Whenever in a Presidency town the Commissioner of Police or elsewhere the Magistrate of the District, considers that the [6][Central Government] should be moved to issue an order under section 3 in respect of any foreigner who is within the limits of such Presidency town or of the jurisdiction of such Magistrate, he may report the case to the [6][Central Government] and at the same time issue a warrant for the apprehension of such foreigner. Foreigner may be apprehended and detained pending order of removal.

(2) Any officer issuing a warrant under sub-section (1) may, in his discretion, direct by endorsement on the warrant that if such foreigner executes a bond with or without sureties for his attendance at a specified place and time, the person to whom the warrant is directed shall take such security and release such foreigner from custody.

(3) Any person executing a warrant under sub-section (1) may search for and apprehend the foreigner named in such warrant, and, subject to any direction issued under sub-section (2) shall forthwith cause such foreigner when apprehended to be produced before the officer issuing the warrant.

(4) When a foreigner for whose apprehension a warrant has been issued under sub-section (1) is produced or appears before the officer issuing such warrant, such officer may direct him to be detained in custody pending the orders of the [6][Central Government] or may release him on his executing a bond with or without sureties to appear at a specified place and time and thereafter if and when required until such orders are obtained.

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[1] Cf. definition in s. 3 (63) of the General Clauses Act, 1897 (10 of 1897).

[2] The clauses relating to "Member" and "[illegible]" rep. by the Repealing and Amending Act, 1914 (10 of 1914).

[3] Subs. by the A.O. for "G. G. of India in C."

[4] The words "and any [illegible] may, by [illegible] make the [illegible] to any foreigner, within the jurisdiction of such Court," rep. by the A.O.

[5] Ins. by the Foreigners (Amendment) Act, 1915 (3 of 1915), s. 2.

[6] Subs. by the A.O. for "L.G."

(5) Any officer who has in accordance with the provisions of sub-section (4), ordered a foreigner to be detained or released on his executing a bond shall forthwith report the fact to the [1][Central Government]. On the receipt of a report under this sub-section the [1][Central Government] shall without delay either direct that the foreigner be discharged or make an order for the removal of such foreigner in accordance with the provisions of section 3.]

Foreigner refusing to remove, or returning without license after removal, may be apprehended and detained.

4. If any foreigner ordered to remove himself from British India, or ordered to remove himself therefrom by a particular route, shall neglect or refuse so to do, or if any foreigner, having removed himself from British India in consequence of an order issued under any of the provisions of this Act, or having been removed from British India under any of the said provisions, shall wilfully return thereto without a license in writing granted by the [2][Central Government] [3]* * * * * , such foreigner may be apprehended and detained in safe custody, until he shall be discharged therefrom by order of the [2][Central Government], [4]* * * upon such terms and conditions as the said [2][Central Government] [5]* * * shall deem sufficient for the peace and security of British India, and of the allies of Her Majesty, and of the neighbouring Princes and States.

Central Government may order all the provisions of this Act to be in force in British India or in any part thereof.

5. Whenever the [2][Central Government] shall consider it necessary to take further precautions in respect of foreigners residing or travelling in British India or any part thereof, it shall be lawful for the [2][Central Government], by a notification published in the [6][Official Gazette], to order that the provisions of this and the subsequent sections of this Act shall be in force in British India, or in such part thereof as shall be specified in such notification, for such period as shall be therein declared; and thereupon, and for such period, the whole of this Act including this and the subsequent sections shall have full force and effect in British India or such part thereof as shall have been so specified. The [2][Central Government] may, from time to time, by a notification published as aforesaid, cancel or alter any former notification which may still be in force, or may extend the period declared therein:

Proviso.

Provided that none of the provisions of this or the subsequent sections of this Act shall extend to any foreign minister duly accredited by his Government; to any consul or vice-consul; to any person under the age of fourteen years; or to any person in the service of Her Majesty.

Every foreigner to report his arrival in India in certain cases.

6. Every foreigner on arriving in any part of British India in which all the provisions of this Act are for the time being in force under an order issued as provided in the last preceding section, from any port or place not within British India, or from any port or place within British India, where all the provisions of this Act are not in force, shall if he arrive at a Presidency-town,

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[1] Subs. by the A. O. for "L. G.".
[2] Subs. by the A. O. for "G. G. of India in C.".
[3] The words "or by the L. G. under whose order he shall have removed himself or been removed," rep. by the A. O.
[4] The words "or of the L. G. within whose jurisdiction he shall be so apprehended or detained," rep. by the A. O.
[5] The words "or L. G." rep. by the A. O.
[6] Subs. by the A. O. for "Gazette of India".

forthwith report himself to the Commissioner of Police of such town, or, if he arrive at any other place, then he shall forthwith report himself to the Magistrate of the district, or to such other officer as shall be appointed to receive such reports by the [1][Central Government] [2]* * * *.

7. The report shall be in writing, and shall be signed by the person reporting himself, and shall specify his name or names, the nation to which he belongs, the place from which he shall have come, the place or places of his destination, the object of his pursuit, and the date of his arrival in such Presidency-town or other place. The report shall be recorded by the officer to whom it is made.

What to be stated in the report.

8. The provisions of the last two preceding sections shall not extend to any person being the master or commander of a vessel or employed therein, but if any such person shall be in any part of British India in which all the provisions of this Act are for the time being in force, after he shall have ceased to be actually employed in a vessel, he shall forthwith report himself in manner aforesaid.

Foreigners, being masters of vessels or employed therein, to report themselves when they cease to be so employed.

9. If any foreigner shall neglect to report himself as required by this Act, he may be dealt with in the manner hereinafter provided in respect of foreigners travelling without a license.

Foreigners neglecting to report themselves, may be dealt with in like manner as foreigners travelling without a license.

10. No foreigner shall travel in or pass through any part of British India in which all the provisions of this Act are for the time being in force without a license.

No foreigner to travel in India without a license.

[3][11. Licenses under this Act may be granted by the Central Government or by officers specially authorised by that Government.]

Grant of licenses.

12. Every such license shall state the name of the person to whom the license is granted, the nation to which he belongs, the district or districts through which he is authorized to pass or the limits within which he is authorized to travel, and the period (if any) during which the license is intended to have effect.

What to be stated in license.

13. The license may be granted subject to such conditions as the [1][Central Government] [4]* * * * may direct, or as the officer granting the license may deem necessary. Any license may be revoked at any time by the

License may be granted subject to conditions and may be revoked.

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[1] Subs. by the A. O. for "G. G. of India in C.".

[2] [illegible] rep. by the A. O.

[3] [illegible] which read as [illegible] Licenses under this [illegible] by any of the L. Gs., [illegible] as the case may be, or by such other officers as shall be specially authorised to grant licenses by the G. G. of India in C. or by any of the L. Gs."

[4] The words "or the L. G." rep. by the A. O.

[1][Central Government] [2]* * * * * * * or by the officer who granted the license.

Foreigner travelling without or contrary to the conditions of license may be apprehended.

14. If any foreigner travel in or attempt to pass through any part of British India without such license as aforesaid, or beyond the districts or limits mentioned therein, or after such license shall have been revoked, or shall violate any of the conditions therein specified, he may be apprehended without warrant by any officer exercising any of the powers of a Magistrate, or by any European commissioned officer in the service of Her Majesty, or by any member of a volunteer corps enrolled by authority of [3][the Central Government] whilst on duty, or by any police-officer.

Procedure upon apprehension.

15. If any person be apprehended by a person not exercising any of the powers of a Magistrate and not being a police-officer, he shall be delivered over as soon as possible to a police-officer, and forthwith carried before the Magistrate of the district. Whenever any person shall be apprehended by or taken before the Magistrate of the district, such Magistrate shall immediately report the case to [4][the Central Government], and shall cause the person brought before him to be discharged, or to be conveyed to one of the Presidency-towns, or pending the orders of such Government to be detained.

Magistrate to report to Government.

Persons apprehended, may be admitted to bail.

16. Any person apprehended or detained under the provisions of this Act may be admitted to bail by the Magistrate of the district, or by any officer authorized to grant licenses, and shall be put to as little inconvenience as possible during his detention in custody.

Removal of persons apprehended.

[5][**17.** The Central Government may order any person apprehended or detained under the provisions of this Act to remove himself from any part of British India by sea or by such other route as the Central Government may direct; or the Central Government may cause him to be removed from that part of British India by such route and in such manner as to that Government may seem fit.]

Central Government may prohibit persons not being natural-born subjects from travelling or passing

18. The [1][Central Government] may by order prohibit any person or any class of persons not being natural-born subjects of Her Majesty within the meaning of the [6]Statute 3 and 4 William IV, Chap. 85, section 81, from travelling in or passing through any part of British India in which all the provisions of this Act may, for the time being, be in force, and from passing from any part thereof to another without a license to be granted by such officer or

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[1] Subs. by the A. O. for " G. G. of India in C.".

[2] The words " or by the L. G. of any part of British India in which all the provisions of this Act are for the time being in force and in which the foreigner holding the same may be " rep. by the A. O.

[3] Subs. by the A. O. for " Govt.".

[4] Subs. by the A. O. for " the L. G. to which he is subordinate ".

[5] Subs. by the A. O. for the original section which read as follows :—

" The L. G. of any part of British India in which all the provisions of this Act are for the time being in force may order any person apprehended or detained under the provisions of this Act to remove himself from any such part of British India, by sea or by such other route as the said L. G. may direct; or the said L. G. may cause him to be removed from such part of British India by such route and in such manner as to such L. G. shall seem fit. The G. G. of India in C. may exercise all the powers given by this section to any L. G."

[6] The Government of India Act, 1833 (3 & 4 Will. IV, c. 85) was rep. excepting s. 112 by the Government of India Act (9 & 10 Geo. 5, c. 101). For definition of " natural-born British Subject," *see* s. 1 of British Nationality and Statute of Aliens Act, 1914 (4 and 5 Geo. V, c. 17), Coll. Stats., Ind., Vol. III.

officers as shall be specified in the order and, if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the officers specified in section 14 of this Act, and carried before the Magistrate of the district, and dealt with under the provisions of section 17 in the same manner as if he were a foreigner and the [1][Central Government] may order such person to be detained in safe custody or under the surveillance of the police so long as it may be deemed necessary for the peace and security of British India or any part thereof

[illegible] any part of India without a licence.

19 [*Concurrent powers of Local Governments within their respective jurisdictions*] *Rep by the A O*

Certain officers may board vessels to ascertain whether foreigners are on board.

20 It shall be lawful for the Commissioner of Police or for the Magistrate of the district, or for any officer appointed to receive reports as mentioned in the sixth section of this Act or for any police officer under the authority of such Commissioner or Magistrate to enter any vessel in any port or place within British India in which all the provisions of this Act may for the time being, be in force, in order to ascertain whether any foreigner bound to report his arrival under the said section 6 of this Act is on board of such vessel, and it shall be lawful for such Commissioner of Police, Magistrate or other officer as aforesaid to adopt such means as may be reasonably necessary for that purpose, and the master or commander of such vessels shall also, before any of the passengers are allowed to disembark, if he shall be required so to do by such Commissioner of Police, Magistrate or other officer as aforesaid, deliver to him a list in writing of the passengers on board, specifying the ports or places at which they embarked, and the ports or places of their disembarkation, or intended disembarkation, and answer to the best of his knowledge all such questions touching the passengers on board the said vessel, or touching those who may have disembarked in any part of British India, as shall be put to him by the Commissioner of Police, Magistrate, or other officer as aforesaid If any foreigner on board such vessel in any part of British India shall refuse to give an account of his objects of pursuit in India or if his account thereof shall not be satisfactory, the officer may refuse to allow him to disembark, or he may be dealt with in the same manner as a foreigner travelling in British India without a license

Master of vessel to furnish list of passengers, and to give information respecting them.

Foreigner refusing to give account of himself not to be allowed to disembark.

Penalty for false answer or report.

21. If the master or commander of a vessel shall wilfully give a false answer to any question which by section 20 of this Act he is bound to answer, or shall make any false report he shall be held to have committed the offence specified in section 177 of the Indian Penal Code

V of 1860.

Penalty for neglecting or refusing to comply with requisitions of Act.

22. If the master or commander of any vessel shall wilfully neglect or refuse to comply with the requisitions of this Act he shall on conviction before the Magistrate of the district or a Justice of the Peace, be liable to a fine not exceeding two thousand rupees

Penalty for obstructing officers.

23 Whoever intentionally obstructs any officer in the exercise of any of the powers vested in him by this Act shall be held to have committed the offence specified in section 1[illegible] of the Indian Penal Code

[illegible] of 1860.

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[1] [illegible] by the A O [illegible] for [illegible]

[1][Central Government] [2]* * * * * * * or by the officer who granted the license.

Foreigner travelling without or contrary to the conditions of license may be apprehended.

14. If any foreigner travel in or attempt to pass through any part of British India without such license as aforesaid, or beyond the districts or limits mentioned therein, or after such license shall have been revoked, or shall violate any of the conditions therein specified, he may be apprehended without warrant by any officer exercising any of the powers of a Magistrate, or by any European commissioned officer in the service of Her Majesty, or by any member of a volunteer corps enrolled by authority of [3][the Central Government] whilst on duty, or by any police-officer.

Procedure upon apprehension.

15. If any person be apprehended by a person not exercising any of the powers of a Magistrate and not being a police-officer, he shall be delivered over as soon as possible to a police-officer, and forthwith carried before the Magistrate of the district. Whenever any person shall be apprehended by or taken before the Magistrate of the district, such Magistrate shall immediately report the case to [4][the Central Government], and shall cause the person brought before him to be discharged, or to be conveyed to one of the Presidency-towns, or pending the orders of such Government to be detained.

Magistrate to report to Government.

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Removal of persons apprehended.

[5][**17.** The Central Government may order any person apprehended or detained under the provisions of this Act to remove himself from any part of British India by sea or by such other route as the Central Government may direct; or the Central Government may cause him to be removed from that part of British India by such route and in such manner as to that Government may seem fit.]

Central Government may prohibit persons not being natural-born subjects from travelling or passing

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[3] Subs. by the A. O. for " Govt.".

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[5] Subs. by the A. O. for the original section which read as follows :—

" The L. G. of any part of British India in which all the provisions of this Act are for the time being in force may order any person apprehended or detained under the provisions of this Act to remove himself from any such part of British India, by sea or by such other route as the said L. G. may direct; or the said L. G. may cause him to be removed from such part of British India by such route and in such manner as to such L. G. shall seem fit. The G. G. of India in C. may exercise all the powers given by this section to any L. G."

[6] The Government of India Act, 1833 (3 & 4 Will. IV, c. 85) was rep. excepting s. 112 by the Government of India Act (9 & 10 Geo. 5, c. 101). For definition of " natural-born British Subject," *see* s. 1 of British Nationality and Statute of Aliens Act, 1914 (4 and 5 Geo. V, c. 17), Coll. Stats., Ind., Vol. III.

officers as shall be specified in the order and, if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the officers specified in section 14 of this Act, and carried before the Magistrate of the district, and dealt with under the provisions of section 17 in the same manner as if he were a foreigner and the [1][Central Government] may order such person to be detained in safe custody or under the surveillance of the police so long as it may be deemed necessary for the peace and security of British India or any part thereof

through any part of India without a license

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Certain officers may board vessels to ascertain whether foreigners are on board

20. It shall be lawful for the Commissioner of Police, or for the Magistrate of the district, or for any officer appointed to receive reports as mentioned in the sixth section of this Act, or for any police officer under the authority of such Commissioner or Magistrate to enter any vessel in any port or place within British India in which all the provisions of this Act may, for the time being be in force, in order to ascertain whether any foreigner bound to report his arrival under the said section 6 of this Act is on board of such vessel, and it shall be lawful for such Commissioner of Police, Magistrate or other officer as aforesaid to adopt such means as may be reasonably necessary for that purpose, and the master or commander of such vessels shall also, before any of the passengers are allowed to disembark, if he shall be required so to do by such Commissioner of Police, Magistrate, or other officer as aforesaid, deliver to him a list in writing of the passengers on board, specifying the ports or places at which they embarked, and the ports or places of their disembarkation, or intended disembarkation, and answer to the best of his knowledge all such questions touching the passengers on board the said vessel, or touching those who may have disembarked in any part of British India, as shall be put to him by the Commissioner of Police, Magistrate, or other officer as aforesaid If any foreigner on board such vessel in any part of British India shall refuse to give an account of his objects of pursuit in India, or if his account thereof shall not be satisfactory, the officer may refuse to allow him to disembark, or he may be dealt with in the same manner as a foreigner travelling in British India without a license

Master of vessel to furnish list of passengers, and to give information respecting them

Foreigner refusing to give account of himself, not to be allowed to disembark.

Penalty for false answer or report

21. If the master or commander of a vessel shall wilfully give a false answer to any question which by section 20 of this Act he is bound to answer, or shall make any false report he shall be held to have committed the offence
1860 specified in section 177 of the Indian Penal Code

Penalty for neglect by master of vessel to comply with requisitions of Act.

22. If the master or commander of any vessel shall wilfully neglect or refuse to comply with the requisitions of this Act, he shall, on conviction before the Magistrate of the district or a Justice of the Peace, be liable to a fine not exceeding two thousand rupees

Penalty for obstructing officers.

23 Whoever intentionally obstructs any officer in the exercise of any of the powers vested in him by this Act shall be held to have committed the
1860 offence specified in section 186 of the Indian Penal Code

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[1] Subs by the A O for "G G of India in C".

24. [*Fines imposed under this Act how to be recovered.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914).*

Persons may be exempted from provisions of this Act.

25. The [1][Central Government], [2]* * * * * may [3]exempt any person, or any class of persons, either wholly or partially, or temporarily or otherwise, from all or any of the provisions of this Act contained in any of the sections subsequent to section 5, and may at any time revoke any such exemption.

THE COMPTOIR D'ESCOMPTE de PARIS ACT, 1864.

ACT NO. VIII OF 1864.

[*2nd March, 1864.*]

An Act to enable the "Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company.

Preamble.

WHEREAS certain persons have formed themselves into a Company at Paris for the transaction of Banking business under the name of the "Comptoir D'Escompte of Paris": and whereas the said Company is constituted and established under and by virtue of various Imperial decrees of the French Government, Notarial Acts, and Articles of Agreement, whereby it is provided (amongst other things) that the said Company may continue to exist and carry on business for a term of thirty years from the eighteenth day of March 1857, that the shareholders of the Company shall be responsible only to the amount of their shares respectively, that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass, and that the Company may establish, on its own responsibility, and with the authority of the Minister of Finance, Agencies in France and in French or Foreign Colonies, such Agencies to be organized and conducted in the same manner as the Comptoir D'Escompte itself: and whereas Agencies of the said Companies have been recently established in Calcutta and in Bombay: and whereas on the thirtieth day of April 1862, a Convention was concluded and signed at Paris between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following Articles, that is to say, "First—The High contracting parties declare that they mutually grant to all Companies and other Associations, commercial, industrial, or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the Tribunals, whether for the purpose of

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[1] Subs. by the A. O. for "G. G. of India in C.".
[2] The words "or the L. G. of any part of British India in which this Act may, for the time being, be in force," rep. by the A. O.
[3] For exemption under this section, *see* Gazette of India, 1914, Pt. I, pp. 1329 and 1905.

bringing an action or for defending the same, throughout the dominions and possessions of the other Power, subject to the sole condition of conforming to the laws of such dominions and possessions Second—It is agreed that the stipulations of the preceding Article shall apply as well to Companies and Associations constituted and authorized previously to the signature of the present Convention as to those which may subsequently be so constituted and authorized. Third—The present Convention is concluded without limit as to duration. Either of the High Powers shall however be at liberty to terminate it by giving to the other a year's previous notice The two High Powers moreover reserve to themselves the power to introduce into the Convention, by common consent, any modifications which experience may show to be desirable " and whereas it is desirable that effect should be given to the said Convention so far as the Comptoir D'Escompte and its Agencies now or hereafter established are concerned. It is enacted as follows —

"British India."

1. Unless the contrary appears from the context in construing this Act the words "British India" denote the Territories which are or may become vested in Her Majesty the Queen by the Statute 21 and 22 Vic Ch 106, entitled "an Act for the better government of India", except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Number.

Words importing the singular number include the plural number, and words importing the plural number include the singular number:

Gender.

Words importing the masculine gender include females:

"Person."

The word "person" includes any Company or Association or body of persons whether incorporated or not

All suits and proceedings by, or on behalf of, or against, the Comptoir D'Escompte shall be instituted in the name of, or against, the Chief Manager for the time being of the Agencies in British India, as the nominal plaintiff or defendant, and shall not abate, &c., on death or removal of such Manager.

2. From and after the passing of this Act, all suits and other proceedings whatsoever, for any injury or wrong done to any real or personal property of the said Comptoir D'Escompte, in whomsoever the same may for the time being be vested, whether in the said Company, or in some person or persons in trust for the said Company, or upon or in respect of any present liability to the said Comptoir D'Escompte, or upon any Bonds, Covenants, Contracts, or Agreements which already have been or hereafter shall be given to or entered into with the said Company, or to or with any person whomsoever in trust for the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested, and also all instruments and petitions to found any adjudication of Insolvency in any Court against any person indebted to the said Comptoir D'Escompte, and liable to have been made Insolvent by the laws now or at any time hereafter in force relating to Insolvents in British India, and generally all other proceedings whatsoever to be commenced or carried on, by or on behalf of the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested against any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall and lawfully may be commenced and prosecuted in the name of the person who shall be the Chief Manager of the Agencies in British India of the said Comptoir D'Es[illegible] at the time such suit or proceeding shall be commenced, as the nom[illegible] tiff or petitioner for or on behalf of the said Comptoir D'Escompte, [illegible]

suits and proceedings, as well for subsisting as future accruing claims, debts, or demands to be commenced against the said Comptoir D'Escompte by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall be commenced and prosecuted against the said Chief Manager for the time being, as the nominal defendant or respondent for and on behalf of the said Comptoir D'Escompte, and the death, removal, resignation or any other act of such Chief Manager, or his bankruptcy or insolvency shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be continued, prosecuted and carried on or defended in the name of any other, the Chief Manager for the time being of the said Agencies.

In criminal proceedings, property whether vested in Comptoir D'Escompte or Trustees, may be described as property of Comptoir or of Chief Manager.

3. From and after the passing of this Act, in all criminal proceedings instituted or carried on by or on behalf of the said Comptoir D'Escompte, for fraud or injury upon or against the said Comptoir D'Escompte, or for any offence whatever relating to any money, notes, bills, effects, securities, or any real or personal property of the said Comptoir D'Escompte, or for any other offence against the said Comptoir D'Escompte, it shall be lawful to state such money, notes, bills, effects and securities, and other real and personal property, in whomsoever the same may be vested, whether in the said Comptoir D'Escompte, or in some person or persons in trust for the said Comptoir D'Escompte, to be the money, notes, bills, effects and securities, or property of the said Comptoir D'Escompte, or of the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte; and any offence committed with intent to injure or defraud the said Comptoir D'Escompte, shall and lawfully may in such proceedings be said to have been committed with intent to injure or defraud the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, and any offender may thereupon be lawfully convicted of any such offence; and in all other proceedings in which, before the passing of this Act, it would have been necessary to state the names of the persons composing the said Comptoir D'Escompte, it shall be lawful and sufficient to state the name of such Chief Manager; and the death, resignation, or removal of such Chief Manager shall not abate or render defective, or in anywise affect or prejudice such criminal proceedings.

Action against the Comptoir on contracts with it not to be defeated because plaintiff is a partner.

4. No suit which may be commenced in any Court in British India against the said Comptoir D'Escompte, or the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte, upon or arising out of any contract entered into by or on behalf of the said Comptoir D'Escompte, shall be in anywise affected or defeated by reason of the plaintiff therein, or of any other person who may be in anywise interested in such action, being a shareholder or partner of or in the said Comptoir D'Escompte; but any shareholder or partner of or in the said Comptoir D'Escompte, shall have the same right of action and remedy to be proceeded in and enforced in the same manner against the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, upon any contract, and for any debt, damage, or demand whatsoever, which he might have had if he had been

a stranger, and not a shareholder or partner of or in the said Comptoir D'Escompte

Suit by Company on contract not to be defeated because defendant is a partner

5. No suit commenced by or on behalf of the said Comptoir D'Escompte in the name of the Chief Manager for the time being as aforesaid by virtue of this Act, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir D'Escompte, or for the recovery of any debt, damage, or demand whatsoever due or owing to the said Comptoir D'Escompte, or for any other cause or any other account, shall be in anywise affected or defeated by or by reason of the defendant therein, or any person or persons who may be in anywise interested in such suit, being a shareholder or partner of or in the said Comptoir D'Escompte but the said Comptoir D'Escompte shall and may have the same right of suit and remedy to be proceeded in and enforced in the same manner against any shareholder or partner of or in the said Comptoir D Escompte, either alone or jointly with any other person, upon any contract, and upon and for any debt, damage, or demand whatsoever, which the said Comptoir D'Escompte might have had if such cause of action had arisen with a stranger, and not with a shareholder or partner of or in the said Comptoir D'Escompte.

Chief Manager to cause a memorial to be enrolled containing certain particulars.

6. The Chief Manager of the Agencies in British India of the said Comptoir D'Escompte shall have an Office for the transaction of the business of the Comptoir D'Escompte He shall cause a memorial, in the form and to the effect set forth in the Schedule (A) to this Act annexed, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him before a Judge of the High Court of Judicature within the jurisdiction of which his Office is situated, to be enrolled amongst the records of the said High Court Such memorial shall, prior to being enrolled, be signed by the said Chief Manager, and shall be accompanied by or have annexed thereto, or endorsed thereon, copies of the decrees, notarial acts, articles, and other instruments under which the Company is established, and copies of the various rules under which the business of the Company is conducted The memorial shall set forth the situation of the Office of the Chief Manager and of every other Office and place in British India in or at which the business of the Comptoir D Escompte is carried on and it shall contain a statement of the amount both of the nominal and of the paid up capital the number of shares into which the capital is divided, the amount of each share, and the amount of capital (if any) which the Comptoir D Escompte shall have set aside for their working capital in British India, and if the last mentioned capital be other than money, then a statement of how it stands invested, and in whose name

Authority of Chief Manager to be authenticated.

7. No memorial shall be enrolled unless the authority of the Chief Manager by whom it is signed, and the copies of the decrees, acts, deeds, and other documents accompanying the memorial shall be authenticated by the signature and seal of the French Financial Minister, and countersigned by Her Britannic Majesty's Consul General in Paris for the time being

Memorial of change in Chief

8. Whenever any new Chief Manager of the Agencies in British India of the said Company shall be appointed, or any change in or addition to any of the

Manager or in facts set forth in former memorial to be enrolled.

facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in the Schedule (B) to this Act annexed, verified as aforesaid, shall, within twelve calendar months after such appointment, change, or addition shall have been made, be enrolled as aforesaid, specifying the name and description of such new Chief Manager, and containing a statement of the change or addition which may have taken place in the facts aforesaid.

False declaration an offence under the Penal Code.

9. If any declaration made for the purpose of verifying a memorial under this Act shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of Section 199 of the Indian Penal Code.

Comptoir not to sue under this Act till after enrolment of memorial, and person named in last memorial to remain liable till fresh memorial is enrolled.

10. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no action or suit shall be brought by the said Comptoir D'Escompte under the authority of this Act: and until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new Chief Manager of the Agencies in British India of the said Comptoir D'Escompte, shall have been duly verified and enrolled, the person whose name shall appear in the last memorial which shall have been duly verified and enrolled, shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner, as if he had not ceased to be such Chief Manager, and as if no new Chief Manager had been appointed.

Examined copy to be a proof of contents of memorial.

11. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the hand and signature of a Registrar for the time being of the High Court of Judicature in which the same shall have been enrolled, shall be received in evidence as proof of the contents of such memorial; and proof shall not be required that the person by whom the memorial purports to be verified was, at the time of such verification, Chief Manager as aforesaid of the said Agencies.

Judgment or order against Chief Manager how to be executed.

12. Execution on every judgment, decree, and order made or pronounced in any suit or proceeding in any Court in British India against the Chief Manager for the time being as aforesaid, shall and may be issued and enforced against any property in British India belonging to the Comptoir D'Escompte. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment and after judgment, shall in all suits against the Chief Manager have full force and effect as regards property in British India belonging to the Comptoir D'Escompte. So long as the full amount recoverable by any person under any judgment, decree, or order shall not have been recovered, no execution issued from any Court in British India, nor anything in this Act, shall in any way prejudice or injure the right of such person to proceed in France, under the privileges and powers reserved to British subjects by and under the said Convention of the thirtieth of April 1862, for the recovery of the amount unrecovered.

No person to bring more than one suit

13. No person having or claiming to have any demand upon or against the said Comptoir D'Escompte shall, when the same has been so determined as to have been pleadable in bar against such person, bring more than one

suit in respect of such demand; and the proceedings in any suit which may have been brought against the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte under the authority of this Act, if so determined, may be pleaded in bar of any suit in any Court in British India, for the same cause against any other such Chief Manager, and in case of any demand which the said Comptoir D'Escompte now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir D'Escompte or not, and which shall have been determined in any action or suit commenced or prosecuted by the Chief Manager for the time being, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand, which may be commenced or prosecuted by the same or any other such Chief Manager as aforesaid. for the same demand against any Chief Manager, nor the Comptoir against any other person.

SCHEDULE (A)

(See section 6.)

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris pursuant to Act VIII of 1864 of the Governor General of India in Council, intituled "An Act to enable the Comptoir D'Escompte of Paris to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company," setting forth the particulars prescribed by section VI of the said Act.

Situation of Office of Chief Manager ....

Situation of other Offices and places in British India ....

Entire Nominal Capital of the Company ....

Paid up Capital ....

Number of Shares ....

Amount of each Share ....

Amount of Capital set aside for operations in British India ....

Mode in which the same is invested ....

Name in which the same is invested ....

I, A. B., Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) A. B.

Declared, etc., before me, a Judge of the High Court of Judicature at .

SCHEDULE (B).

(See section 8.)

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, pursuant

to Act VIII of 1864 of the Governor-General of India in Council, intituled " An Act to enable the Comptoir D'Escompte, etc.," (*as in foregoing*), setting forth particulars of change or changes as prescribed by section VIII of the said Act.

Name and description of new Chief Manager..
or
New situation of Office of Chief Manager...
or
Other change...

I, C. D., Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above-written memorial is true in all respects.

(Signed) C. D.

Declared before me, etc., etc. (*as before*).

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[1][THE INDIAN TOLLS ACT, 1864.]

ACT NO. XV OF 1864.

[*24th March, 1864.*]

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[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).
For Statement of Objects and Reasons to the Bill which was passed into law as Act 15 of 1864, *see* Gazette of India, 1864, p. 120, and for Proceedings relating to the Bill, *see ibid*, Supplement, pp. 39, 67, 77, 99 and 119.
This Act has been declared in force in the Santhál Parganas by the Santhál Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, in the C. P. and the Sambalpur District by the C. P. Laws Act, 1875 (20 of 1875). *See* also first foot-note to s. 3, *infra*.
It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	*See* Gazette of India, 1881, Pt. I, p. 504.
The Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismail Khán and Dera Gházi Khán. [*Portions of the Districts of Hazára, Bannu, Dera Ismail Khán and Dera Gházi Khán and the Districts of Pesháwar and Kohát now form the N.-W. F. P.,* see *Gazette of India, 1901, Pt. I, p. 857, and* ibid, *1902, Pt. I, p. 575; but its application has been barred to that portion of the Hazára District known as Upper Tanawal by the Hazára (Upper Tanawal) Regulation, 1900 (2 of 1900)*]	Ditto 1886, Pt. I, p. 48.
The District of Lahaul . . .	Ditto 1886, Pt. I, p. 301.

An Act to amend Act VIII of 1851 (*for enabling Government to levy Tolls on Public Roads and Bridges*).

of 1851. WHEREAS by Act VIII of 1851 (*for enabling Government to levy Tolls on Public Roads and Bridges*) authority was given for the levy of certain rates of toll [1] * * * *; It is enacted as follows:— Preamble.

1. [*Schedule of Act VIII of 1851 repealed and another schedule substituted.*] *Rep. by the Devolution Act, 1920 (XXXVIII of 1920), s. 2 and Sch. I.*

2. Any person entrusted with the management of the collection of tolls under [2] Act VIII of 1851 may in his discretion compound for any period not exceeding one year with any person for a certain sum to be paid by such person for himself or for any vehicle or animal kept by him, in lieu of the rates of toll [3][authorized to be levied under the said Act VIII of 1851]. Collectors of tolls may compound for tolls leviable under Act VIII of 1851 or this Act.

3. The [4][Provincial Government] may extend this [5]Act to any place in which the said Act VIII of 1851 is in force; and the [4][Provincial Government] of any place in which the said Act VIII of 1851 is not in force may extend the said Act VIII of 1851 and this Act to such place.[6] Power to extend Act.

4. [*Interpretation clause. Local Government.*] *Rep. by the A. O.*

[*Schedule.*] *Rep. by the Devolution Act, 1920 (XXXVIII of 1920), s. 2 and Sch. I.*

It has been extended, by notification under s. 5 of the last mentioned Act, to the Scheduled District of Coorg. *See* Gazette of India, 1878, Pt. I, p. 45.

The Act has been extended to Ajmer Merwara along with Act 8 of 1851, *see* Gazette of India, 1889, Pt. II, p. 532; to the Scheduled Districts in Vizagapatam and Ganjam, *see* Fort St. George Gazette, 1899, Pt. I, p. 1486, and *ibid*, 1900, Pt. I, p. 1101, respectively, and to the District of Darjeeling, *see* Calcutta Gazette, 1934, Pt. I, p. 175.

The Act is to be deemed to be and to have been in force in the Punjab, from the 24th March 1864, *see* the Indian Tolls Act, 1888 (8 of 1888), s. 1, and tolls levied or purporting to have been levied under the Act before the passing of Act 8 of 1888, are to be deemed to have been lawfully levied—*see* s. 3, *ibid*.

[1] Certain words rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

[2] The Indian Tolls Act, 1851.

[3] Subs. for "specified in the schedule to the said Act VIII of 1851 or in the schedule to this Act" by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

[4] Subs. by the A. O. for "L. G.".

[5] The Act now regulating tolls in the Presidency of Bombay is the Tolls on Roads and Bridges Act, 1875 (Bom. 3 of 1875). That Act repealed Act 8 of 1851 in the Bombay Presidency, *see* s. 1, and declared that Act 15 of 1864 should be deemed to have been extended thereto as from the 24th July 1864, *see* s. 2.

[6] Both Acts have been extended to Oudh (*see* Gazette of India, 1865, Pt. I, p. 777), the C. P. (*ibid*, Pt. I, 1871, p. 611) and to the District of Lakhimpur (*see* Assam Gazette, 1935, Pt. II, p. 1027).

As to the authority of the Provincial Government in any part of British India not specified in s. 2 of the Indian Tolls Act, 1851 (8 of 1851), to which that Act and the Indian Tolls Act, 1864 (15 of 1864), may be or have been extended, *see* the Indian Tolls Act, 1888 (8 of 1888), s. 2 (1).

THE CARRIERS ACT, 1865.

[1]Act No. III of 1865.

[*14th February, 1865.*]

An Act relating to the rights and liabilities of Common Carriers.

Preamble. Whereas it is expedient not only to enable common carriers to limit their liability for loss of or damage to property delivered to them to be carried

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[1] For Statement of Objects and Reasons of the Bill which was passed into law as Act 3 of 1865, *see* Gazette of India Extraordinary, dated 1st August 1864 and for Proceedings relating to the Bill, *see ibid*, Supplement, p. 497, and *ibid*, 1865, pp. 51, 64 and 65.

The Act has been declared to be in force in the whole of British India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been applied to the Santhál Parganas, by the Santhál Parganas Settlement Regulation, 1872 (3 of 1872), s. 31.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

Sind	*See* Gazette of India,	1880, Pt. I, p. 672.
West Jalpáiguri, the Western Hills of Dárjiling, the Dárjiling Tarái and the Damson Sub-division of the Dárjiling District	Ditto	1881, Pt. I, p. 74.
The Districts of Hazáribagh, Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	Ditto	1881, Pt. I, p. 504.
The Porahat Estate in the District of Singbhum	Ditto	1897, Pt. I, p. 1059.
Kumáon and Garhwál	Ditto	1876, Pt. I, p. 605.
The Scheduled portion of the Mirzápur District	Ditto	1878, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1878, Pt. I, p. 382.
The Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismail Khán and Dera Gházi Khán. [*Portions of the Districts of Hazára, Bannu, Dera Ismail Khán and Dera Gházi Khán and the Districts of Pesháwar and Kohát now form the N.-W. F. P.*, see *Gazette of India, 1901, Pt. I, p. 857, and* ibid, *1902, Pt. I, p. 575 ; but its application to that part of the Hazára District known as Upper Tanawal is barred by the Hazára (Upper Tanawal) Regulation, 1900 (2 of 1900)*]	Ditto	1886, Pt. I, p. 48
The Scheduled Districts of the C. P. .	Ditto	1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
The District of Sylhet	Ditto	1879, Pt. I, p. 631.
The rest of Assam (except the North Lushái Hills)	Ditto	1897, Pt. I, p. 299.

It has been declared, by notification under s. 3 (*b*) of the last-mentioned Act, not to be in force in the Scheduled District of Lahaul—*see* Gazette of India, 1886, Pt. I, p. 301.

It has been extended, by notification under s. 5 of the same Act, to the following Scheduled Districts, namely :—

The Tarái of the Province of Agra .	*See* Gazette of India,	1876, Pt. I, p. 505.
Ajmer and Merwara	Ditto	1877, Pt. I, p. 605.

It has been rep. as to carriers by rail by the Indian Railways Act, 1879 (4 of 1879). For the Indian Railways Act now in force, *see* the Indian Railways Act, 1890 (9 of 1890).

but also to declare their liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves, their servants or agents; It is enacted as follows:—

1. This Act may be cited as the Carriers Act, 1865. Short title.

2. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

"common carrier" denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place, by land or inland navigation, for all persons indiscriminately: "Common carrier."

[1] "person" includes any association or body of persons, whether incorporated or not. "Person"

[2] * * *

3. No common carrier shall be liable for the loss of or damage to property delivered to him to be carried exceeding in value one hundred rupees and of the description contained in the schedule to this Act, unless the person delivering such property to be carried, or some person duly authorized in that behalf, shall have expressly declared to such carrier or his agent the value and description thereof.[3] Carriers not to be liable for loss of certain goods above one hundred rupees in value, unless delivered as such.

4. Every such carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred rupees and of the description aforesaid, at such rate of charge as he may fix: For carrying such property payment may be required at rates fixed by carrier.

Provided that, to entitle such carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge required, printed or written in English and in the vernacular language of the country wherein he carries on such business. Proviso.

5. In case of the loss or damage to property exceeding in value one hundred rupees and of the description aforesaid, delivered to such carrier to be carried, when the value and description thereof shall have been declared and payment shall have been required in manner provided for by this Act, the person entitled to recover in respect of such loss or damage shall also be entitled to recover any money actually paid to such carrier in consideration of such risk as aforesaid. The person entitled to recover in respect of property lost or damaged may also recover money paid for its carriage.

6. The liability of any common carrier for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any public notice; but any such carrier, not being the owner of a railroad or tramroad constructed under the provisions of [4]Act XXII of 1863 (to provide *for taking land for works of public utility to be constructed by private persons* In respect of what property liability of carrier not limited or affected by public notice. Carriers with certain

[1] *Cf.* definition in s. 3 (42) of the General Clauses Act, 1897 (10 of 1897).

[2] The paragraph relating to "number" was rep. by the Repealing and Amending Act, 1914 (10 of 1914).

[3] The earlier enactment extended to India the principle embodied in the Carriers Act, 1830 (11 Geo. IV & 1 Wm. IV, c. 68). *See Statement of Objects and Reasons quoted above.*

[4] See now the Land Acquisition Act, 1894 (1 of 1894), s. 2.

exceptions, may limit liability by special contract.

or Companies, and for regulating the construction and use of works on land so taken) may, by special contract, signed by the owner of such property so delivered as last aforesaid or by some person duly authorized in that behalf by such owner, limit his liability in respect of the same.

Liability of owner of railroad or tramroad constructed under Act XXII of 1863, not limited by special contract. In what case owner of railroad or tramroad answerable for loss or damage.

[1]7. The liability of the owner of any railroad or tramroad constructed under the provisions of the said [2]Act XXII of 1863, for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any special contract; but the owner of such railroad or tramroad shall be liable for the loss of or damage to property delivered to him to be carried only when such loss or damage shall have been caused by negligence or a criminal act on his part or on that of his agents or servants.

Common carrier liable for loss or damage caused by neglect or fraud of himself or his agent.

8. Notwithstanding anything hereinbefore contained, every common carrier shall be liable to the owner for loss of or damage to any property delivered to such carrier to be carried where such loss or damage shall have arisen from the [3]* * criminal act of the carrier or any of his agents or servants [4][and shall also be liable to the owner for loss or damage to any such property other than property to which the provisions of section 3 apply and in respect of which the declaration required by that section has not been made, where such loss or damage has arisen from the negligence of the carrier or any of his agents or servants].

Plaintiffs, in suits for loss, damage, or non-delivery, not required to prove negligence or criminal act.

9. In any suit brought against a common carrier for the loss, damage or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage or non-delivery was owing to the negligence or criminal act of the carrier, his servants or agents.

Notice of loss or injury to be given within six months.

[5][**10.** No suit shall be instituted against a common carrier for the loss of, or injury to, goods entrusted to him for carriage, unless notice in writing of the loss or injury has been given to him before the institution of the suit and within six months of the time when the loss or injury first came to the knowledge of the plaintiff.]

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[1] S. 7 (so far as it relates to railways) has been rep. by the Indian Railways Act, 1890 (9 of 1890), s. 72.
[2] *See* now the Land Acquisition Act, 1894 (1 of 1894), s. 2.
[3] The words "negligence or" rep. by the Carriers (Amendment) Act, 1921 (13 of 1921), s. 2.
[4] Ins. by *ibid.*
[5] Ins. by s. 2 of the Indian Carriers Act, 1899 (10 of 1899). The original section was rep. by the Indian Railways Act, 1890 (9 of 1890).

[1][11. The [2][Provincial Government] may, by notification in the [3][Official Gazette], add to the list of articles contained in the Schedule to this Act, and the Schedule shall, on the issue of any such notification, be deemed to have been amended accordingly.] Power to Provincial Government to add to the Schedule

SCHEDULE

Gold and silver coin
Gold and silver in a manufactured or unmanufactured state
Precious stones and pearls
Jewellery
Time pieces of any description
Trinkets
Bills and hundis
Currency notes of the [4][Central Government], or notes of any Banks, or securities for payment of money, English or Foreign
Stamps and stamped paper
Maps, prints, and works of art.
Writings
Title-deeds
Gold or silver plate or plated articles.
Glass
China
Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials
Shawls and lace
Cloths and tissues embroidered with the precious metals or of which such metals form part
Articles of ivory, ebony or sandal wood
[5][Art pottery and all articles made of marble
Furs
Government securities
Opium
Coral
Musk, *Itr*, Sandal wood oil, and other essential oils used in the preparation of *itr* or other perfumes
Musical and scientific instruments
Feathers
Narcotic preparations of hemp
Crude India rubber
Jade, Jade stone and amber
Gooroochand or Gooroochandan
Cinematograph films and apparatus
Zahir Mohra Khatai.]

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[1] Ins. by s. 3 of the Carriers (Amendment) Act, 1921 (13 of 1921).
[2] Subs. by the A. O. for "G. G. in C."
[3] Subs. by the A. O. for "Gazette of India".
[4] Subs. by the A. O. for "G. of I."
[5] Ins. by Notification No. 2270 dated 16th October 1922, see Gazette of India, 1922, Pt. I, p. 1223.

THE NATIVE CONVERTS' MARRIAGE DISSOLUTION ACT, 1866.

CONTENTS.

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[1] Act No. XXI of 1866.

[2nd April, 1866.]

An Act to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity.

Whereas it is expedient to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity deserted or repudiated on religious grounds by their wives or husbands; It is enacted as follows:— Preamble.

1. This Act may be cited as the Native Converts' Marriage Dissolution Act, 1866. Short title.

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[1] For Statement of Objects and Reasons to the Bill which was passed into law as Act 21 of 1866, see Gazette of India, 1865, p. [illegible]; for the Report of the Select Committee, see ibid., 1866, p. 163, and for discussions on the Bill, see ibid., 1865, Supplement, p. 5, and 1866, Supplement, p. 201

This Act has been declared to be in force in the whole of British India, except the Scheduled Districts, by s. 3 of the Laws Local Extent Act, 1874 (15 of 1874)

It has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation 1872 (3 of 1872)

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

Sind	See Gazette of India, [illegible], Pt. I, p. [illegible]	
West Jalpaiguri	Ditto	1881, Pt. I, p. 74.
The District of Darjeeling	Ditto	[illegible], Pt. I, p. [illegible].
The Districts of Hazaribagh, Lohardaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singhbhum .	Ditto	1881, Pt. I, p. 504.

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[illegible]	See Gazette of India, [illegible], Pt. I, p. [illegible]	
West Jalpaiguri	Ditto	1881, Pt. I, p. 74.
The District of Darjeeling . .	Ditto	[illegible], Pt. I, p. [illegible]
The Districts of Hazaribagh, Lohardaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singhbhum .	Ditto	1881, Pt. I, p. 504.

2. [*Commencement of Act.*] *Rep. by the Repealing Act, 1874* (*XVI of 1874*).

Interpretation-clause. "Native husband".

3. In this Act—

"Native husband" shall mean a married man domiciled in British India, who shall have completed the age of sixteen years, and shall not be a Christian, a Muhammadan nor a Jew:

"Native wife".

"Native wife" shall mean a married woman domiciled in British India, who shall have completed the age of thirteen years, and shall not be a Christian, a Muhammadan nor a Jewess:

"Native law".

"Native law" shall mean any law, or custom having the force of law, of any persons domiciled in British India other than Christians, Muhammadans and Jews:

"Month" and "year".

"Month" and "year" shall respectively mean month and year according to the British calendar:

[1]* * * * * * * * *

When convert deserted by his wife may sue for conjugal society.

4. If a Native husband change his religion for Christianity, and if in consequence of such change his Native wife, for the space of six continuous months, desert or repudiate him, he may sue her for conjugal society.

When convert deserted by her husband may sue.

5. If a Native wife change her religion for Christianity, and if in consequence of such change her Native husband for the space of six continuous months desert or repudiate her, she may sue him for conjugal society.

The Porahat Estate in the Singbhum District	*See* Gazette of India,	1897, Pt. I, p. 1059.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
The Scheduled portion of the Mirzápur District	Ditto	1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.
The Districts of Hazára, Peshâwar, Kohát, Bannu, Dera Ismail Khán and Dera Ghâzi Khán. [*Portions of the Districts of Hazára, Bannu, Dera Ismail Khán and Dera Ghâzi Khán and the Districts of Peshâwar and Kohát now form the N.-W. F. P.*, see *Gazette of India, 1901, Pt. I, p. 857, and* ibid, *1902, Pt. I, p. 575; but its application to that part of the Hazára District known as Upper Tanawal is barred by the Hazára* (*Upper Tanawal*) *Regulation, 1900* (*2 of 1900*)] . . .	Ditto	1886, Pt. I, p. 48.
The District of Sylhet	Ditto	1879, Pt. I, p. 631.
The rest of Assam (except the North Lushái Hills)	Ditto	1897, Pt. I, p. 299.
The District of Lahaul	Ditto	1886, Pt. I, p. 301.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumáon and Garhwál	*See* Gazette of India,	1876, Pt. I, p. 606.
The Tarái of the Province of Agra .	Ditto	1876, Pt. I, p. 505.

[1] The paragraph relating to number was rep. by the Repealing and Amending Act, 1914 (10 of 1914), and the definition of High Court by the A. O.

6. If the respondent at the time of commencement of such suit, reside within the local limits of the ordinary original civil jurisdiction of any of the High Courts of Judicature the suit shall be commenced in such Court, otherwise it shall be commenced in the principal Civil Court of original jurisdiction of the district in which the defendant shall reside at the commencement of the suit. Court in which suit shall be brought.

7. The suit shall be commenced by a petition in the form in the first schedule to this Act or as near thereto as the circumstances of the case will allow. Suit to be commenced by verified petition.

The statements made in the petition shall be verified by the petitioner in the manner required by law for the verification of plaints, and the petition [1]* * * may be amended by permission of the Court.

8. A copy of the petition shall be served upon the respondent and the Court shall thereupon issue a citation under the seal of the Court and signed by the Judge. On service of petition, citation to respondent.

9. In ordinary cases the citation shall be in the form in the second schedule to this Act, or as near thereto as the circumstances of the case will allow. Form of citation.

But where the respondent is exempt by law from personal appearance in Court or where the Judge shall so direct, the citation shall be in the form in the third schedule to this Act or as near thereto as the circumstances of the case will allow.

10. A copy of the citation sealed with the seal of the Court shall be served on the respondent, and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply *mutatis mutandis* to citations under this Act. Service of citation.

11. If the respondent shall not obey such citation and comply with every other requirement made upon her or him under the provisions of this Act she or he shall be liable to punishment under section 174 of the Indian Penal Code. Penalty on respondent not obeying citation.

1860

12. On the day fixed in the citation the petitioner shall appear in Court, and the following points shall be proved:— Points to be proved on appearance of petitioner.

(1) the identity of the parties;

(2) the marriage between the petitioner and the respondent;

(3) that the male party to the suit has completed the age of sixteen years and that the female party to the suit has completed the age of thirteen years;

(4) the desertion or repudiation of the petitioner by the respondent;

(5) that such desertion or repudiation was in consequence of the petitioner's change of religion;

(6) and that such desertion or repudiation had continued for the six months immediately before the commencement of the suit.

13. The respondent, if such points be proved to the satisfaction of the Judge, shall then personally be asked whether she or he refuses to cohabit with the petitioner, and, if so, what is the ground of such refusal. [illegible] ground of respondent.

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[1] The words [illegible] were rep. by the [illegible] 188[illegible] (Act [illegible] of 18[illegible]), s. 111.

r

In ordinary cases such interrogation and every other interrogation prescribed by this Act shall be made by the Judge, but when the respondent is exempt by law from personal appearance in Court, or when the Judge shall in his discretion excuse the respondent from such appearance, the interrogation shall be made by commissioners acting under such commission as hereinafter mentioned.

Interrogations by Judge may be public or private.

14. Every interrogation mentioned in this Act and made by the Judge may, at the discretion of the Judge, take place in open Court or in his private room.

If any such interrogation take place in open Court, the Judge may, so long as it shall continue, exclude from the Court all such persons as he shall think fit to exclude.

Procedure when female respondent refuses to cohabit with petitioner.

Adjournment for a year.

Interview.

15. If the respondent be a female and in answer to the interrogatories of the Judge or commissioners, as case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall make an order adjourning the case for a year, and directing that, in the interim the parties shall, at such place and time as he shall deem convenient, have an interview of such length as the Judge shall direct, and in the presence of such person or persons (who may be a female or females) as the Judge shall select with the view of ascertaining whether or not the respondent freely and voluntarily persists in such refusal.

Procedure on expiration of adjournment.

Interrogation of respondent.

16. At the expiration of such adjournment the petitioner shall again appear in Court and shall prove that the said desertion or repudiation had continued up to the time last hereinbefore referred to, and if the points mentioned in section 12 and this section of this Act shall be proved to the satisfaction of the Judge, and if the respondent on being interrogated by the Judge or commissioners, as the case may be, again refuse to cohabit with the petitioner, the respondent shall be taken to have finally deserted or repudiated the petitioner;

Decree.

and the Judge shall, by a decree under his hand and sealed with the seal of his Court, declare that the marriage between the parties is dissolved.

Decree in case of male respondent refusing to cohabit on grounds of petitioner's change of religion.

17. If the respondent be a male and in answer to the interrogatories of the Judge or commissioners, as the case may be, shall refuse to cohabit with the petitioner the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall adjourn the case for a year.

At the expiration of such adjournment, the petitioner shall again appear in Court; and if the respondent on being interrogated by the Judge or commissioners, as the case may be, again refuse to cohabit with the petitioner, the Judge shall thereupon pass such a decree as last aforesaid:

Proviso.

Provided that if the petitioner shall so desire (but not otherwise), the proceedings in the suit shall, *mutatis mutandis*, be the same as in the case of a female respondent.

18. Notwithstanding anything hereinbefore contained, if it shall appear at any stage of the suit that both or either of the parties had not attained puberty at the date of their marriage, and that such marriage has not been consummated, and if, in answer to the interrogatories made pursuant to section 13 of this Act, the respondent shall refuse to cohabit with the petitioner, and allege as the ground for such refusal, that the petitioner has changed his or her religion, the Judge shall thereupon pass such a decree as last aforesaid. *Decree if [illegible]*

19. When any decree dissolving a marriage shall have been passed under the provisions of this Act, it shall be as lawful for the respective parties thereto to marry again as if the prior marriage had been dissolved by death, and the issue of any such re-marriage shall be legitimate, any Native law to the contrary notwithstanding: *Parties to [illegible] marry again.*

Provided always that no minister of religion shall be compelled to solemnize the marriage of any person whose former marriage may have been dissolved under this Act, or shall be liable to any suit or penalty for refusing to solemnize the marriage of any such person.

20. In suits instituted under this Act, the Judge shall order a commission to issue to such persons, whether males or females, or both, as he shall think fit, for the examination on interrogatories or otherwise of any persons so exempt as aforesaid. *Judge to order commission to issue for examination of exempted persons.*

The provisions of the Code of Civil Procedure shall, so far as practicable, apply to commissions issued under this section.

21. At any stage of a suit instituted under this Act, cohabitation as man and wife shall be sufficient presumptive evidence of the marriage of the parties, and proof of the respondent's refusal or voluntary neglect to cohabit with the petitioner, after his or her change of religion and after knowledge thereof by the respondent, shall be sufficient evidence of the respondent's desertion or repudiation of the petitioner, and shall also be sufficient evidence that such desertion or repudiation was in consequence of the petitioner's change of religion, unless some other sufficient cause for such desertion or repudiation be proved by the respondent. *Proof of marriage and [illegible]*

22. The provisions of the Code of Civil Procedure as to the summoning and examination of witnesses shall apply in suits instituted under this Act. *[illegible]*

23. If at any stage of the suit it be proved that the male party to the suit is or was at the institution thereof under the age of sixteen years, or that the female party to the suit is or was at the same time under the age of thirteen years, or that the petitioner and the respondent are cohabiting as man and wife, or the Court is satisfied by the evidence adduced that the respondent is ready and willing so to cohabit with the petitioner, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. *Dismissal of [illegible]*

24. If at any time within twelve months after a decree [illegible]

immediately before the passing of such decree; and after the proofs, interrogations, interview and adjournment which may then be requisite under the provisions hereinbefore contained, the Judge shall pass a decree of the nature mentioned in section 16 of this Act.

Petitioner's cruelty or adultery to bar suit.

25. If at any stage of the suit it be proved that the respondent has deserted or repudiated the petitioner solely or partly in consequence of the petitioner's cruelty or adultery, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

A suit dismissed under this section shall not be revived.

Male petitioner's cohabitation with one of several wives to bar suit.

26. If the petitioner, being a male, has at the time of the institution of the suit two or more wives, he shall make all respondents; and if at any stage of the suit it be proved that he is cohabiting with one of such wives as man and wife, or that any one of such wives is ready and willing so to cohabit with him, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

The provisions as to revival contained in section 24 of this Act shall apply, *mutatis mutandis*, to a suit dismissed under this section.

Dissolution of marriage not to affect status or right of children.

27. A dissolution of marriage under the provisions of this Act shall not operate to deprive the respondent's children (if any) by the petitioner of their status as legitimate children or of any right or interest which they would have had, according to the Native law applicable to them, by way of maintenance, inheritance or otherwise, in case the marriage had not been so dissolved as aforesaid.

Power to Court to award alimony.

28. If a suit be commenced under the provisions of this Act, and it appear to the Court that the wife has not sufficient separate property to enable her to maintain herself suitably to her station in life and to prosecute or defend the suit, the Court may, pending the suit, order the husband to furnish the wife with sufficient funds to enable her to prosecute or defend the suit and also for her maintenance pending the suit.

If the suit be brought by a husband against a wife, the Court may by the decree order the husband to make such allowance to his wife for her maintenance during the remainder of her life as the Court shall think just, and having regard to the condition and station in life of the parties.

Any allowance so ordered shall cease from the time of any subsequent marriage of the wife.

No appeal under Act; but Judge may state case raising question whether conversion has dissolved marriage.

29. No appeal shall lie against any order or decree made or passed by any Court in any suit instituted under this Act; but if, at any stage of the suit, the respondent shall allege by way of defence that the marriage between the parties has been dissolved by the conversion of the petitioner, and that consequently the petitioner is not a Native husband or a Native wife (as the case may be) within the meaning of this Act, the Judge, if he shall entertain any doubt as to the validity of such defence, shall either of his own motion or on the application of the respondent, state the case and submit it with his own opinion thereon for the decision of the High Court.

Case to state necessary facts and

30. Every such case shall concisely set forth such facts and documents as may be necessary to enable the High Court to decide the questions raised

thereby, and the suit shall be stayed until the judgment of such Court shall have been received as hereinafter provided [illegible]

31. Every such case shall be decided by at least three Judges of the High Court, if such Court be the High Court at any of the presidency towns, and the petitioner and respondent may appear and be heard in the High Court in person or by advocate or vakil. Case to be decided by three Judges.

32. If the High Court shall not be satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the High Court may refer the case back to the Judge by whom it was stated, to make such additions thereto or alterations therein as the High Court may direct in that behalf. High Court may refer case to Judge for additions or alterations.

33. It shall be lawful for the High Court, upon the hearing of any such case, to decide the questions raised thereby, and to deliver its judgment thereon containing the grounds on which such decision is founded; High Court to decide questions raised and Judge shall dispose of case accordingly.

and it shall send to the Judge by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Judge shall, on receiving the same, dispose of the case conformably to such judgment.

34. Nothing contained in this Act[1] * * * * * * shall be taken to render invalid any marriage of a Native convert to Roman Catholicism if celebrated in accordance with the rules, rites, ceremonies and customs of the Roman Catholic Church[1] * * * * * Saving of Roman Catholic marriages.

35. This Act shall extend to all the territories that are or shall become vested in Her Majesty or Her successors by the [2]Statute 21 & 22 Vict., cap. 106, entitled "An Act for the better government of India."[3] * * * * Extent of Act.

THE FIRST SCHEDULE.
(See section 4.)
FORM OF PETITION.

Stamp
[illegible]

To the Judge of the Civil Court of
The [illegible] day [illegible] 18
The petition of [illegible]
Showeth :—

1. That your petitioner was [illegible] at [illegible] the [illegible] day of [illegible] 18 .

2. That your petitioner was on the [illegible] day of [illegible] in the year 18 lawfully married to [illegible] at

[1] The words and figures [illegible] Acts No. XXV of 1864 and V of 186[illegible] and the words "and to Clergymen of [illegible]" [illegible] repealed by the Repealing Act, 1874 (16 of 1874).

[2] The [illegible] Act [illegible] 18[illegible] [illegible]

[3] The [illegible] repealed by the Repealing Act [illegible] 1[illegible] of 18[illegible]

[4] The [illegible] of 18[illegible]

3. That the said *C. D.* is now of the age of years or thereabouts.

4. That after his said marriage, your petitioner lived and cohabited with his said wife at aforesaid until the day of 18 .

5. That previous to the day of 18 your petitioner changed his religion for Christianity, and that on such day he was baptised and became a member of the Church of .

6. That on the day of 18 [*at least six months prior to the date of the petition*], the said *C. D.* deserted your petitioner, and has not since resumed cohabitation with him.

7. That such desertion was in consequence of your petitioner's said change of religion.

8. That there is no collusion nor connivance between your petitioner and the said *C. D.*

Your petitioner therefore prays that Your Honour will order the said *C. D.* to live and cohabit with your petitioner, or declare that your petitioner's marriage is dissolved.

A. B.

Form of verification.

I, *A. B.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

THE SECOND SCHEDULE.

(*See section 9.*)

FORM OF CITATION IN ORDINARY CASES.

To *C. D.* of

Whereas *A. B.* of , claiming to have been lawfully married to you, the said, *C. D.*, has filed his [*or* her] petition against you in the Civil Court of , alleging that you, the said *C. D.*, have deserted him [*or* her] for six months in consequence of his [*or* her] having changed his [*or* her] religion for Christianity and praying that, unless you consent to live and cohabit with him [*or* her], it may be declared that his [*or* her] marriage is dissolved: Now this is to command you that, at the expiration of days [*at least one month*] from the date of the service of this on you, you do appear in the said Court then and there to make answer to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so appearing you will be liable to punishment under section 174 of the Indian Penal Code. XLV of 1860.

Dated the day of 18 .

(*Signed*) *E. F.*,
Judge of the Civil Court of .

(*Indorsement to be made after service.*)

This citation was duly served by *G. H.* on the within-named *C. D.* of at on the day of 18 .

(*Signed*) *G. H.*

THE THIRD SCHEDULE.

(*See section 9.*)

FORM OF CITATION IN CASE OF RESPONDENT EXEMPT FROM APPEARANCE IN COURT.

To *C. D.* of

Whereas *A. B.* of , claiming to have been lawfully married to you, the said *C. D.* has filed his [*or* her] petition against you in the Civil Court of , alleging that you, the said *C. D.*, have deserted him [*or* her] for six months in consequence of his [*or* her] having changed his [*or* her] religion for Christianity, and praying that, unless you consent to cohabit with him [*or* her], it may be declared that his [*or* her] marriage is dissolved : Now this is to command you that, at the expiration of days [*at least one month*] from the service of this on you, you do hold yourself in readiness to answer and do answer such interrogatories as may be put to you by commissioners duly authorized in that behalf under a commission issued by this Court in reference to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that, in default of your so holding yourself in readiness and answering such interrogatories, you will be liable to punishment under section 174 of the Indian Penal Code. XLV of 1860.

Dated the day of 18 .

(*Signed*) *E. F.*,
Judge of the Civil Court of

(*Indorsement to be made after service.*)

This citation was duly served by *G. H.* on the within-named *C. D.* of on the day of 18 .

(*Signed*) *G. H.*

[1][THE BOMBAY HIGH COURT (LETTERS PATENT) ACT, 1866]

ACT NO. XXIII OF 1866

[*17th May, 1866*]

An Act to correct two clerical errors in the [2]Letters Patents for the High Court of Judicature for the Presidency of Bombay.

WHEREAS the twenty second section of the [2]Letters Patent for the High Court of Judicature for the Presidency of Bombay, dated the 28th December 1865, is as follows :—" And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all *such* persons beyond such limits over whom the said High Court of Judicature at *Fort William in Bengal* shall have criminal jurisdiction at the date of the publication of these presents ;" Preamble.

And whereas it is expedient to correct the two clerical errors in such section which are hereinbefore indicated by italics ;

It is hereby enacted as follows :—

1. In lieu of the said recited section, the following shall be substituted :— Clause substituted for section 23 of revised Letters Patent of Bombay High Court.

" and we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all persons beyond such limits over whom the said High Court of Judicature at Bombay shall have criminal jurisdiction at the date of the publication of these presents "

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[3][THE UNCLAIMED DEPOSITS ACT, 1866]

ACT NO. XXV OF 1866

[*11th July, 1866*]

An Act to transfer to the Government of India certain securities and moneys deposited in the High Courts of Judicature at Fort William, Madras and Bombay[4] * * *.

WHEREAS it is expedient that certain securities and moneys deposited in the High Courts of Judicature at Fort William, Madras and Bombay, Preamble.

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[1] Short title given by the Bombay Short Titles Act, 1921 [illegible] in Council relating to this Act, which was [illegible] passed [illegible] India, 1866, Supplement, p. [illegible]

[2] See Coll. [illegible] and O., Vol. I.

[3] Short title given by the Indian Short Titles Act, 1897 (14 of 1897). [illegible] Objects and Reasons [illegible] India, 1866, p. [illegible] and for Proceedings [illegible] p. 234.

[4] The words [illegible] of Bengal" were [illegible] and in the Supreme Court [illegible] (16 of 1874) [illegible]

[1]* * in the course of suits in the said Courts or in the late Supreme Courts at Calcutta, Madras and Bombay, respectively, and now or hereafter appearing to have been in such deposit for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period, should be transferred and paid to the Government of India for the general purposes of Government; [2]* * * * It is hereby enacted as follows:—

Money deposited in High Courts and unclaimed for twenty years transferred to Government.

1. All securities and sums of money deposited in the said High Courts [3]* * * or any of them, in the course of suits in any of the said Courts or of the late Supreme Courts of Calcutta, Madras and Bombay, and now or hereafter appearing to have been in such deposit for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period, shall be transferred and paid to [4][the Government of the Province in which the Court has its prinicipal seat.]

2. [*Proceeds of estates administered under order of Supreme Court of Straits Settlements or in charge of Administrator General of Bengal.*] *Rep. by the Administrator General's Act, 1867* (*XXIV of 1867*), *and the Repealing Act, 1874* (*XVI of 1874*).

Transfer not made pending suits.

3. Nothing in this Act shall authorize any transfer or payment of any such securities, sums of money or proceeds as aforesaid, pending any suit already instituted or which shall hereafter be instituted in respect thereof.

Repayment on subsequent establishment of claim.

4. If any claim shall hereafter be made to any part of the securities, money or proceeds which shall be transferred and [5][paid to any Government] under the provisions of this Act, and if such claim shall, in the case of securities and money transferred and paid under section 1 of this Act, be established to the satisfaction of the High Court[6]* * * from which the transfer shall have been made,[6]* * * [7][the Government of the Province in which that Court has its principal seat shall pay] to the claimant the amount of the principal so transferred and paid as aforesaid, or so much thereof as shall appear to be due[8] to the claimant[9]* * * * * * *.

THE INDIAN TRUSTEES ACT, 1866.

CONTENTS.

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[1] The words "and in the Supreme Court of the Straits Settlements" rep. by the Repealing Act, 1874 (16 of 1874), s. 2 and Sch., Pt. I.

[2] The second cl. of the preamble rep. by the Repealing Act, 1876 (12 of 1876), s. 1 and Sch. Pt. I.

[3] The words "or Supreme Court of the Straits Settlements" rep. by Act. 16 of 1874.

[4] Subs. by the A. O. for "the G. of I. for the general purposes of Govt."

[5] Subs. by the A. O. for "paid to the G. of I."

[6] Certain words rep. by Act. 16 of 1874.

[7] Subs. by the A. O. for "the G. of I. shall pay."

[8] As to the costs of petition under this section, *see* the Unclaimed Deposits Act, 1870 (5 of 1870).

[9] The second sentence rep. by the Administrator General's Act, 1867 (24 of 1867).

SECTIONS

[1] Act No XXVII of 1866.

[24th October, 1866]

An Act to consolidate and amend the law relating to the conveyance and transfer of property in British India vested in Mortgagees and Trustees, in cases to which English law is applicable.

WHEREAS it is expedient to consolidate and amend the laws relating to the conveyance and transfer of moveable and immoveable property in British India vested in mortgagees and trustees, in cases to which English law is applicable; It is hereby enacted as follows — Preamble

1. [*Repeal of Act*] *Rep by the Repealing Act, 1870 (XIV of 1870)*

2. [2] In this Act, unless there be something repugnant in the subject or context,— Interpretation clause.

"immoveable property" shall extend to and include messuages, tenements, hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein: "Immoveable property"

[3] "stock" shall mean any fund, annuity or security transferable in books kept by any company or society established or to be established, or transferable by deed alone, or by deed accompanied by other formalities and any share or interest therein It shall also include shares in ships registered under the Merchant Shipping Act, 1854, or at any port in British India "Stock"

[17 & 18 Vict., c 104]

"hold" and "holding" shall be applicable to any vested estate whether for life or of a greater or less description, in possession futurity or expectancy in any immoveable property "Hold" and "holding"

"contingent right" as applied to immoveable property shall mean a contingent or executory interest, or possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent "Contingent right"

"convey" and "conveyance," applied to any person, shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another immoveable property which such person holds, or in which he is entitled to a contingent right, either for the whole estate of the person conveying or disposing, or for any less estate, together with the "Convey" and "conveyance"

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[1] The Statement of Objects and Reasons for the Bill which was passed into law as Act 27 of 1866 is not published, for discussion on the Bill, see Gazette of India, 1866, Supplement, pp. 416, 417, 424 and 531

[2] This Act is mainly founded on "the Trustee Act, 1850" (13 & 14 Vict., c [illegible]), and "the Trustee Act, 1852" (15 & 16 Vict., c [illegible])

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874) to be in force in the [illegible]

The [illegible] of Hazaribagh, Lohardaga [illegible] see Calcutta Gazette 1899, Pt. I, p. 44), and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum, see Gazette of India, 1881, Pt. I, p. 504

[3] Cf 13 & 14 Vict., c 60, s 2

[4] Cf "The Merchant Shipping Act Amendment Act, 1855" (18 & 19 Vict., c 91), s 12. This Act has been rep. by the Merchant Shipping Act, 1894 (57 & 58 Vict., c 60), s [illegible], Chr. Stats., Int., Vol II

performance of all formalities required by law to the validity of such conveyance, including the acts to be performed by married women and tenants in tail in accordance with the provisions of Act XXXI of 1854 (*to simplify the modes of conveying land in cases to which the English Law is applicable*):

"Transfer."

"transfer" shall mean the execution and performance of every deed and act by which a person entitled to stock or Government securities can transfer such stock or Government securities from himself to another:

"High Court."

[1]["High Court" means a court which is a High Court for the purposes of the Government of India Act, 1935.] 26

"Trust." "Trustee."

"trust" shall not mean the duties incident to an estate conveyed by c. way of mortgage; but with this exception, the words "trust" and "trustee" shall extend to and include implied and constructive trusts, and shall extend to and include cases where the trustee has some beneficial estate or interest in the subject of the trust, and shall extend to and include the duties incident to the office of executor or administrator of a deceased person:

"Lunatic."

"lunatic" shall mean any person who shall have been found by due course of law to be of unsound mind and incapable of managing his affairs:

"Person of unsound mind."

"person of unsound mind" shall mean any person not a minor who, not having been found to be a lunatic, shall be incapable from infirmity of mind to manage his own affairs:

"Heir" and "devisee."

in the case of a will made or an intestacy occurring before the [2]first day of January, 1866, "heir" shall mean the person claiming an interest in the immoveable property of a deceased person under the laws concerning descent applicable to such property: and "devisee" shall, in addition to its ordinary signification, mean the heir of a devisee and the devisee of an heir, and generally any person claiming an interest in the immoveable property of a deceased person, not as heir of such deceased person, but by a title dependent solely upon the operation of the laws concerning devise and descent:

in the case of a will made or an intestacy occurring on or after the [2]first day of January, 1866, "heir" shall mean any person claiming an interest in the immoveable property, of a deceased person under the rules for the distribution of an intestate's estate: and "devisee" shall mean any person taking immoveable property under a bequest, and any person other than an executor or administrator, claiming an interest in immoveable property, not as entitled thereto under the said rules, but by a title dependent solely upon the operation of the laws concerning intestate and testamentary succession:

"Mortgage."

"mortgage" shall be applicable to every estate or interest in immoveable or moveable property which would in the High Court be deemed merely a security for money:

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[1] Subs. by the A. O. for original definition. *See* s. 219 of the Government of India Act, 1935 (26 Geo. 5, c. 2), for list of High Courts.

The High Court of Judicature at Lahore is the High Court in respect of proceedings under this Act arising from the N.-W. F. P., *see* s. 6 (*c*) of the N.-W. F. P. Law and Justice Regulation, 1901 (7 of 1901).

[2] The day on which the Indian Succession Act, 1865 (10 of 1865), came into force. This Act has been rep. by the Indian Succession Act, 1925 (39 of 1925).

"person" shall include any company or association or body of persons, "Person." whether incorporated or not.

1* * * * * * *

3. The powers and authorities given by this Act to the High Court shall and may be exercised only in cases to which English law is applicable, and may be exercised with respect to property within the local limits of the extraordinary original civil jurisdiction of the said Courts respectively. [illegible] to take [illegible] in what cases.

4.[2] When any lunatic or person of unsound mind shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order that such property be vested in such person or persons in such manner and for such estate as the said Court shall direct, and the order shall have the same effect as if the trustee or mortgagee had been sane and had duly executed a conveyance of the property in the same manner for the same estate. High Court may convey [illegible]

5.[2] When any lunatic or person of unsound mind shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said High Court shall direct, and the order shall have the same effect as if the trustee or mortgagee had been sane and had duly executed a deed so releasing or disposing of the contingent right. [illegible] may convey [illegible]

6.[2] When any lunatic or person of unsound mind shall be solely entitled to any stock or Government securities or to anything in action upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action or any interest in respect thereof; High Court may transfer [illegible] or Government [illegible] and mortgagees.

and when any person or persons shall be entitled jointly with any lunatic or person of unsound mind to any stock or Government securities or thing in action upon any trust or by way of mortgage, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any other person or persons as the said High Court may appoint.

7.[2] When any stock or Government securities shall be [illegible] name of any deceased person whose executor or adm[illegible] [illegible] or [illegible] or when [illegible] shall [illegible] any lunatic or person of unsound mind as the executor or administrator [illegible]

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[1] [illegible] "[illegible]" and "[illegible]" [illegible] Act, 19[illegible] (10 of 1914).

[2] [illegible]

13.[1] When any person jointly entitled with any other person or persons to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order disposing of the contingent right of the person out of the jurisdiction, or who cannot be found, to the person or persons so jointly entitled as aforesaid, or to such last mentioned person or persons together with any other person or persons, and the order shall have the same effect as if the trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance so releasing or disposing of the contingent right

High Court may make order where persons jointly entitled, and one of whom out of jurisdiction, to contingent right in immoveable property

14.[1] Where there shall have been two or more persons jointly holding any immoveable property upon any trust, and it shall be uncertain which of such trustees was the survivor, it shall be lawful for the High Court to make an order vesting such property in such person or persons, in such manner and for such estate as the said Court shall direct and the order shall have the same effect as if the survivor of such trustees had duly executed a conveyance of the property in the same manner for the same estate

When uncertain which of several trustees survived.

15.[1] Where any one or more person or persons shall have held any immoveable property upon any trust, and it shall not be known as to the trustee last known to have held such property, whether he be living or dead it shall be lawful for the High Court to make an order vesting such property in such person or persons, in such manner and for such estate, as the said Court shall direct, and the order shall have the same effect as if the last trustee had duly executed a conveyance of the property in the same manner for the same estate

When uncertain whether last trustee living or dead

16.[1] When any person holding any immoveable property upon any trust shall have died intestate as to such property without an heir, or shall have died, and it shall not be known who is his heir or devisee, it shall be lawful for the High Court to make an order vesting such property in such person or persons, in such manner and for such estate, as the said Court shall direct and the order shall have the same effect as if the heir or devisee of such trustee had duly executed a conveyance of the property in the same manner for the same estate

When trustee dies without heir

17.[1] When any immoveable property is subject to a [illegible] in an unborn person, or class of unborn persons who, upon coming into existence, would in respect thereof hold such property upon any trust, it shall be lawful for the High Court to make an order which shall wholly release and discharge such property from such contingent right of such unborn person or class of unborn persons, or to make an order which shall vest in any person or persons the estate or estates which such unborn person or class of unborn persons would, upon coming into existence, hold in such property

[illegible]

[1] Cf. the Trustee Act, 18[illegible] (13 & 14 Vict., c. [illegible]), ss. 12, 13, 14, 15 and 16, [illegible]

Power to make order for vesting estate on refusal or neglect of trust to convey or release.

18.[1] In every case where any person holds or shall hold jointly or solely any immoveable property, or is or shall be entitled to a contingent right therein upon any trust, and a demand shall have been made upon such trustee by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, requiring such trustee to convey the same, or to release such contingent right, it shall be lawful for the High Court, if the said Court shall be satisfied that such trustee has wilfully refused or neglected to convey the said property for the space of twenty-eight days after such demand, to make an order vesting such property in such person or persons, in such manner and for such estate, as the Court shall direct, or releasing such contingent right in such manner as the Court shall direct; and the said order shall have the same effect as if the trustee had duly executed a conveyance of the property, or a release of such right, in the same manner and for the same estate.

Power to convey in place of mortgagee.

19.[2] When any person to whom any immoveable property has been conveyed by way of mortgage shall have died without having entered into the possession or into the receipt of the rents and profits thereof, and the money due in respect of such mortgage shall have been paid to a person entitled to receive the same, or such last-mentioned person shall consent to an order for the re-conveyance or vesting of such property, then in any of the following cases it shall be lawful for the High Court to make an order vesting such property in such person or persons, in such manner and for such estate as the said Court shall direct, that is to say,—

when an heir or devisee of such mortgagee shall be out of the jurisdiction of the High Court, or cannot be found:

when an heir or devisee of such mortgagee shall upon a demand by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, have stated in writing that he will not convey the same, or shall not convey the same for the space of twenty-eight days next after a proper deed for conveying such property shall have been tendered to him by a person entitled as aforesaid, or a duly authorized agent of such last-mentioned person:

when it shall be uncertain which of several devisees of such mortgagee was the survivor:

when it shall be uncertain as to the survivor of several devisees of such mortgagee, or as to the heir of such mortgagee, whether he be living or dead:

when such mortgagee shall have died intestate as to such property and without an heir, or shall have died and it shall not be known who is his heir or devisee:

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[1] *Cf.* the Trustee Act, 1852 (15 & 16 Vict., c. 55), s. 2. Ss. 1 to 5, and ss. 8 and 9 of this Act, together with the residue, rep., except as to lunacy jurisdiction in Ireland, by 56 & 57 Vict., c. 53, s. 51.

[2] *Cf.* "the Trustee Act, 1850" (13 & 14 Vict., c. 60), s. 19.

And the order of the said High Court made in any one of the foregoing cases shall have the same effect as if the heir or devisee, or surviving devisee, as the case may be, had duly executed a conveyance of the property in the same manner and for the same estate

20[1] In every case where the High Court shall under the provisions of this Act, be enabled to make an order having the effect of a conveyance of any immoveable property, or having the effect of a release or disposition of the contingent right of any person or persons born or unborn it shall also be lawful for the High Court, should it be deemed more convenient, to make an order appointing a person to convey such property, or release or dispose of such contingent right, — Power to appoint person to convey in certain cases

and the conveyance, or release or disposition of the person so appointed shall, when in conformity with the terms of the order by which he is appointed, have the same effect, in conveying the property, or releasing or disposing of the contingent right, as an order of the High Court would in the particular case, have had under the provisions of this Act

In every case where the High Court shall under the provisions of this Act, be enabled to make an order vesting in any person or persons the right to transfer any stock transferable in the books of any company or society established or to be established, it shall also be lawful for the High Court, if it be deemed more convenient, to make an order directing the secretary or any officer of such company or society at once to transfer or join in transferring the stock to the person or persons to be named in the order,

and this Act shall be a full and complete indemnity and discharge to all companies or societies and their officers and servants for all acts done or permitted to be done pursuant thereto

21.[2] When any person or persons shall be jointly entitled with any person out of the jurisdiction of the High Court or who cannot be found or concerning whom it shall be uncertain whether he be living or dead to any stock or Government securities or thing in action upon any trust it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends interest or income thereof, or to sue for or recover such thing in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last mentioned person or persons together with any person or persons the said Court may appoint — When trustees of stock or Government securities not found, vesting with trustees

When any sole trustee of any stock, Government securities or thing in action shall be out of the jurisdiction of the said Court or cannot be found or it shall be uncertain whether he be living or dead, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action or any interest in respect thereof, in any person or persons the said Court may appoint

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[1] Cf the Trustee Act, 1850 (13 & 14 Vict, c. 60), s. 2[illegible]
[2] Cf, ibid, s. 2[illegible]

When trustee of stock, etc., refuses to transfer.

22.[1] Where any sole trustee of any stock, Government securities or thing in action shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action, or any interest in respect thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person absolutely entitled thereto, it shall be lawful for the High Court to make an order vesting the sole right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

When one of several trustees of stock, etc., refuses to transfer or receive and pay over dividends.

23.[1] Where any one of the trustees of any stock, Government securities or thing in action shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action according to the direction of the person, absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by such person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, in the other trustee or trustees of the said stock, Government securities or thing in action, or in any person or persons whom the said Court may appoint jointly with such other trustee or trustees.

When stock, etc., standing in name of deceased person.

24.[1] When any stock or Government securities shall be standing in the sole name of a deceased person, and his executor or administrator shall be out of the jurisdiction of the High Court, or cannot be found, or it shall be uncertain whether such executor or administrator be living or dead, or such executor or administrator shall neglect or reufse to transfer such stock or Government securities, or receive the dividends, interest or income thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person entitled as aforesaid, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

Effect of order vesting legal right to transfer stock, etc.

25.[1] Where any order shall have been made under this Act vesting the right to any stock or Government securities in any person or persons appointed by the High Court, such legal right shall vest accordingly, and thereupon the person or persons so appointed are hereby authorized and empowered to execute all deeds and powers-of-attorney, and to perform all acts relating to the transfer of such stock and Government securities into

[1] *Cf.* the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 23, 24, 25 and 26, respectively.

his or their own name or names or otherwise, or relating to the receipt of the dividends, interest or income thereof, to the extent and in conformity with the terms of such order.

All companies and associations whatever, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such companies, associations or persons would have been bound and compellable to comply with the requisitions of the persons in whose place such appointment shall have been made, and shall be equally indemnified in complying with the requisition of such person or persons so appointed as they would have been indemnified in complying with the requisition of the person in whose place such appointment shall have been made.

Obligation to comply with requisitions of person appointed.

Indemnity.

After notice in writing of any such order of the High Court concerning any stock or Government securities shall have been given, it shall not be lawful for any company or association, or any person having received such notice, to act upon the requisition of the person in whose place an appointment shall have been made, in any matter relating to the transfer of such stock or Government securities, or the payment of the dividends, interest or income thereof.

Termination of powers of person replaced.

26.[1] Where any order shall have been made under this Act by the High Court vesting the legal right to sue for or recover anything in action, or any interest in respect thereof, in any person or persons, such legal right shall vest accordingly, and thereupon it shall be lawful for the person or persons so appointed, to carry on, commence and prosecute, in his or their own name or names, any suit or other proceeding for the recovery of such thing in action, in the same manner in all respects as the person in whose place an appointment shall have been made could have sued for or recovered such thing in action.

Effect of order vesting legal right to things in action.

27.[2] Where any person shall neglect or refuse to transfer any stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover anything in action, or any interest in respect thereof, for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting all the right of such person to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

Court may direct transfer of stock, etc., or vesting of right to sue, in other person on neglect to obey order.

28.[3] When any stock or Government securities shall be standing in the sole name of a deceased person, and his executor or administrator shall refuse or neglect to transfer such stock or Government securities, or receive the dividends, interest or income thereof for the space of twenty-eight days

Power to order transfer on neglect by executor.

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[1] Cf. 13 & 14 Vict., c. 60, s. 27.
[2] Cf. the Trustee Act, 1852 (15 & 16 Vict., c. 55), s. 4.
[3] Cf. ibid., s. 5.

next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

Legal right to transfer stock to vest in person appointed by High Court.

29.[1] When any order being or purporting to be under this Act shall be made by the High Court, vesting the right to any stock or Government securities, or vesting the right to transfer any stock or Government securities, or vesting the right to call for the transfer of any stock or Government securities in any person or persons, in every such case the legal right to transfer such stock or Government securities shall vest accordingly;

Powers of person appointed.

and the person or persons so appointed shall be authorized and empowered to execute all deeds and powers-of-attorney, and to perform all acts relating to the transfer of such stock or Government securities into his or their own name or names or otherwise, to the extent and in conformity with the terms of the order.

Obligation to comply with his requisitions.

All companies and associations, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such companies, associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made.

Power to make order for transfer, or receipt of dividends, or stock, etc., in name of minor trustee.

30.[2] When any minor shall be solely entitled to any stock or Government securities upon any trust it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof.

When any minor shall be entitled jointly with any other person or persons to any stock or Government securities; upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof either in the person or persons jointly entitled with the minor, or in him or them together with any other person or persons the said Court may appoint.

When decree made for sale of immoveable property for payment of debts.

31.[3] When a decree or order shall have been made by the High Court directing the sale of any immoveable property for the payment of the debts of a deceased person, every person holding such property, or entitled to a contingent right therein, as heir, or under the will of such deceased debtor, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act;

and the High Court is hereby empowered to make an order wholly discharging the contingent right, under the will of such deceased debtor, of any unborn person.

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[1] *Cf.* the Trustee Act, 1852 (15 & 16 Vict., c. 55), s. 6.
[2] *Cf. ibid*, s. 3.
[3] *Cf.* the Trustee Act, 1850 (13 & 14 Vict., c. 60), s. 29. S. 31 rep. in places to which the Transfer of Property Act, 1882 (4 of 1882), extends or is extended—*see* s. 2 of latter Act.

32.[1] When any decree or order shall have been made by the High Court whether before or after the passing of this Act, directing the sale of any immoveable property for any purpose whatever, every person holding such property, or entitled to a contingent right therein being a party to the suit or proceeding in which such decree or order shall have been made and bound thereby, or being otherwise bound by such decree or order shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act — [illegible]

In every such case it shall be lawful for the High Court if the said Court shall think it expedient for the purpose of carrying such sale into effect, to make an order vesting such property or any part thereof for such estate as the Court shall think fit either in any purchaser or in such other person as the Court shall direct — [illegible]

Every such order shall have the same effect as if the person so holding or entitled had been free from all disability, and had duly executed all proper conveyances and assignments of such property for such estate — [illegible]

33.[2] Where any decree or order shall be made by the High Court for the specific performance of a contract concerning any immoveable property, or for the partition or exchange of any immoveable property, or generally when any decree shall be made for the conveyance of any immoveable property, either in cases arising out of the doctrine of election or otherwise, it shall be lawful for the said Court to declare that any of the parties to the said suit wherein such decree is made are trustees of such property, or any part thereof, within the meaning of this Act or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased who was during his lifetime a party to the contract or transactions concerning which such decree is made that such interests of unborn persons are the interests of persons who upon coming into existence, would be trustees within the meaning of this Act — [illegible]

Thereupon it shall be lawful for the High Court to make such order or orders as to the estates rights and interests of such persons born or unborn as the said Court might, under the provisions of this Act make concerning the estates rights and interests of trustees born or unborn

34.[3] It shall be lawful for the High Court to make declarations and give directions concerning the manner in which the right to any stock, Government securities or thing in action vested under the provisions of this Act shall be exercised and thereupon the [illegible] [illegible] [illegible] [illegible] — [illegible]

35.[4] In all cases [illegible] — [illegible]

[illegible]
[illegible]

appointing new trustees. so to do without the assistance of the High Court, it shall be lawful for the said Court to make an order appointing a new trustee or new trustees, whether there be any existing trustee or trustees or not at the time of making such order, and, if there be such trustee or trustees, either in substitution for or in addition to him or them.

Powers of new trustees. [1]The person or persons who upon the making of such order shall be trustee or trustees shall have the same rights and powers as he or they would have had if appointed by decree in a suit duly instituted.

Power to Court to vest immoveable property in new trustee. **36.**[2] It shall be lawful for the High Court, upon making any order for appointing a new trustee or new trustees, either by the same or by any subsequent order, to direct that any immoveable property subject to the trust shall vest in the person or persons who upon the appointment shall be the trustee or trustees, for such estate as the Court shall direct.

Such order shall have the same effect as if the person or persons who, before such order, was or were the trustee or trustees (if any) had duly executed all proper conveyances of such property for such estate.

Power to Court to vest right to sue in new trustee. **37.**[2] It shall be lawful for the High Court, upon making any order for appointing a new trustee or new trustees, either by the same or by any subsequent order, to vest the right to call for a transfer of any stock or Government securities subject to the trust, or to receive the dividends, interest or income thereof, or to sue for or recover anything in action subject to the trust, or any interest in respect thereof, in the person or persons who upon the appointment shall be the trustee or trustees.

Old trustees not discharged from liability. **38.**[2] Any such appointment by the High Court of new trustees, and any such conveyance or transfer as aforesaid, shall operate no further or otherwise as a discharge to any former or continuing trustee, than an appointment of new trustees under any power for that purpose contained in any instrument would have done.

Who may apply. **39.**[2] An order under any of the hereinbefore contained provisions, for the appointment of a new trustee or new trustees, or concerning any immoveable property, stock or Government securities, or thing in action subject to a trust, may be made upon the application of any person beneficially interested in such immoveable property, stock, Government securities or thing in action, whether under disability or not, or upon the application of any person duly appointed as a trustee thereof, and an order under any of the provisions hereinbefore contained, concerning any immoveable property, stock, Government securities or thing in action subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the moneys secured by such mortgage.

Application may be by petition. **40.**[2] When any person shall deem himself entitled to an order under any of the provisions hereinbefore contained, it shall be lawful for him to present a petition to the High Court for such order as he may deem himself

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[1] *Cf.* the Trustee Act, 1850 (13 & 14 Vict., c. 60), s. 33.
[2] *Cf. ibid,* ss. 34, 35, 36, 37 and 40 respectively.

entitled to, and he may give evidence by affidavit or otherwise in support of such petition before the said Court, and may serve such person or persons with notice of such petition as he may deem entitled to service thereof

What may be done upon petition.

41.[1] Upon the hearing of any such petition, it shall be lawful for the said High Court, should it be deemed necessary, to direct a reference to one of the Judges of the Court to inquire into any facts which require such an investigation, or it shall be lawful for the said Court to direct such petition to stand over, to enable the petitioner to adduce evidence or further evidence before the Court, or to enable notice or any further notice of such petition to be served upon any person or persons

Court may dismiss petition or make order thereon.

42.[1] Upon the hearing of any such petition, it shall be lawful for the High Court to dismiss such petition with or without costs or to make an order thereupon in conformity with the provisions of this Act

Power to make order in causes.

43.[1] Whensoever in any cause or matter either by the evidence adduced therein, or by the admissions of the parties or by report of one of the Judges of the Court, the facts necessary for an order under this Act shall appear to the High Court to be sufficiently proved, it shall be lawful for the said Court either upon the hearing of the said cause or of any petition or application in the said cause or matter, to make such order under this Act.

Orders by High Court founded on certain allegations conclusive evidence of matter so alleged therein.

44.[1] Whenever any order shall be made under this Act by the High Court, for the purpose of conveying any immoveable property, or for the purpose of releasing or disposing of any contingent right and such order shall be founded on an allegation of the personal incapacity of a trustee or mortgagee, or on an allegation that a trustee or the heir or devisee of a mortgagee is out of the jurisdiction of the High Court, or cannot be found, or that it is uncertain which of several trustees, or which of several devisees of a mortgagee, was the survivor, or whether the last trustee, or the heir or last surviving devisee of a mortgagee, be living or dead, or on an allegation that any trustee or mortgagee has died intestate without an heir, or has died and it is not known who is his heir or devisee, then in any of such cases the fact that the High Court has made an order upon such an allegation shall be conclusive evidence of the matter so alleged in any Court of Civil Judicature upon any question as to the legal validity of the order

Power as to reconveyance of immoveable property, etc.

Provided always that nothing herein contained shall prevent the High Court directing a reconveyance of any immoveable property conveyed or assigned by any order under this Act, or a redisposition of any contingent right conveyed or disposed of by such order, and it shall be lawful for the said Court to direct any of the parties to any suit concerning such property or contingent right to pay any costs occasioned by the order under this Act when the same shall appear to have been improperly obtained.

Trustees of charity.

45.[1] It shall be lawful for the High Court to exercise the powers herein conferred for the purpose of vesting any immoveable property, stock, Government securities or thing in action in the trustee or trustees of any charity

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[1] Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 41, 42, 43, 44 and 45 respectively.

or society, over which charity or society the High Court would have jurisdiction upon suit duly instituted, whether such trustee or trustees shall have been duly appointed by any power contained in any deed or instrument, or by the decree of the said Court, or by order made upon a petition to the said Court.

Money of minors and persons of unsound mind to be paid into Court.

46.[1] Where any minor or person of unsound mind shall be entitled to any money payable in discharge of any immoveable property, stock, Government securities or thing *in action* conveyed or transferred under this Act, it shall be lawful for the person by whom such money is payable to pay the same into the High Court, in trust *in any cause* then depending concerning such money, or, if there shall be no such cause, to the credit of such minor or person of unsound mind, subject to the order or disposition of the said Court;

and it shall be lawful for the said Court, upon petition in a summary way, to order any money so paid to be invested in Government securities, and to order payment or distribution thereof, or payment of the dividends or interest thereof as to the said Court shall seem reasonable.

Court may make decree in absence of trustee.

47.[1] Where in any suit commenced or to be commenced in the High Court it shall be made to appear to the Court that diligent search and enquiry have been made after any person made a defendant, who is only a trustee, to serve him with the process of the Court, and that he cannot be found, it shall be lawful for the said Court to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to it to be only a trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such trustee had been duly served with the process of the Court, and had appeared at the hearing of such cause:

Decree not effective without service of process.

Provided always that no such decree shall bind, affect or in any wise prejudice any person against whom the same shall be made without service of process upon him as aforesaid, his heirs, executors or administrators, for or in respect of any estate, right or interest which such person shall have at the time of making such decree for his own use or benefit, or otherwise than as a trustee as aforesaid.

Orders under Act chargeable with same stamp-duty as deeds of conveyance.

48.[2] Every order to be made under this Act, which shall have the effect of a conveyance of any immoveable property, or a transfer of any such stock, Government securities or thing in action as can only be transferred by stamped deed, or for the transfer of which a stamp is necessary, shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed executed or a transfer made by the person or persons holding such property or entitled to such stock, Government securities or thing in action.

Every such order shall be duly stamped for denoting the payment of the said duty.

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[1] *Cf.* the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 48 and 49, respectively.
[2] *Cf.* the Trustee Act, 1852 (15 & 16 Vict., c. 55), s. 13; since rep. by the Statute Law Revision Act, 1892.

49.[1] The High Court may order the costs and expenses of and relating to the petitions, orders, directions, conveyances and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the immoveable or moveable property or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the said Court shall think proper. [illegible]

50.[1] Upon any petition being presented under this Act to the High Court, concerning a person of unsound mind, it shall be lawful for the said Court to make an order directing an enquiry whether such person is or is not of unsound mind, and incapable of managing himself and his affairs. [illegible]

Such order shall have the same effect as the like order made under section 1 of [2]Act XXXIV of 1858 (*to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter*), and the enquiry directed to be made shall be made in all respects in the manner declared and prescribed for making an enquiry under the last mentioned Act. [illegible]

The High Court may postpone making any order upon the petition presented as aforesaid, until any enquiry so directed to be made shall have been finally concluded. [illegible]

51.[1] Upon any petition under this Act being presented to the High Court it shall be lawful for the said Court to postpone making any order upon such petition until the right of the petitioner shall have been declared in a suit duly instituted for that purpose. [illegible]

52.[3] Every order made or purporting to be made under this Act by the High Court shall be a complete indemnity to all persons whatsoever for any act done pursuant thereto, and it shall not be necessary for such persons to enquire concerning the propriety of such order or whether the High Court has jurisdiction to make the same. [illegible]

53. Any order made by the High Court under this Act shall have the same effect and be executed in the same manner as a decree. [illegible]

54. This Act may be cited as the Indian Trustee Act, 1866. [illegible]

55. [*Application of Act to Straits Settlements.*] *Rep. by the Repealing Act, 1874 (XVI of 1874).*

THE TRUSTEES' AND MORTGAGEES' POWERS ACT, 1866

CONTENTS

PREAMBLE

SECTIONS

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[1] [illegible]
[2] Act XXXIV of 1858 [illegible]
[3] [illegible]

Special commissioners' Final orders. case ; and will finally pass such orders thereon as appear just and consistent with its powers in such cases.

Definition of "Government." **23.** [1][In this Act, "the Government" means the Central Government in the case of persons employed under that Government and the Provincial Government in the case of persons employed under that Government.]

Saving of enactments as to dismissal of certain officers. Commission under Act for their trial. **24.**[2] Nothing in this Act shall be construed to repeal any Act or Regulation in force for the suspension or dismissal of Principal and other Sadr Amins or of Deputy Magistrates or Deputy Collectors, but a commission may be issued for the trial of any charge against any of the said officers, under this Act, in any case in which the Government shall think it expedient.

Saving of power of removal without inquiry under Act. **25.** Nothing in this Act shall be construed to affect the authority of Government, for suspending or removing any public servant for any cause without an inquiry under this Act.

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[3][THE INDIAN TOLLS ACT, 1851.]

ACT NO. VIII OF 1851.

[4th July, 1851.]

An Act for enabling Government to levy Tolls on Public Roads and Bridges.

Preamble. WHEREAS it is expedient to enable Government to levy tolls upon roads and bridges ; It is enacted as follows :—

1. *[Repeal of Acts.] Rep. by the Repealing Act, 1870 (XIV of 1870).*

Extent. [4][**1-A.** This Act extends to the territories administered on the fourth of

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[1] Subs. by the A. O. for the original section.

[2] Rep., as to the Lower Provinces and North-Western Provinces of Bengal, by the Principal Sadr Amins Act, 1868 (16 of 1868).

[3] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act should be read with the Indian Tolls Act, 1864 (15 of 1864), and the Indian Tolls Act, 1888 (8 of 1888).

[4] Ins. by the A. O. under s. 1 of Act 8 of 1888. This Act is deemed to be in force throughout the territories administered by the Lieutenant-Governor of the Punjab on the 5th September 1888 and to have been in force, from the 21st August 1857, in the territories for the time being administered as part of the Punjab.

It has been extended under s. 3 of Act 15 of 1864 to Ajmer and Merwara : *see* Gazette of India, 1889, Part II, p. 562.

It has been declared in force in the C. P. by the C. P. Laws Act, 1875 (20 of 1875), s. 3 ; in the Santhál Parganas by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and Kolhán in the District of Singbhum	*See* Gazette of India, 1881, Pt. I, p. 504.
The Districts of Hazára, Peshávar, Kohat, Bannu, Dera Ismail Khán and Dera Gházi Khán. *[Portions of the Districts of Hazára, Bannu,*	

July, eighteen hundred and fifty one, by the Governor of the Presidency of Fort William in Bengal, the Lieutenant Governor of North Western Provinces of Bengal and the Governor of the Presidency of Fort St George in Council]

Power to cause levy of tolls on roads and bridges within certain rates and to appoint collectors Collectors responsibilities

2. [1][The Provincial Government] may cause such rates of toll,[2] * * * as [3][it thinks fit], to be levied upon any road or bridge which has been, or shall hereafter be, made or repaired [4][at the expense of the Central or any Provincial Government], and may place the collection of such tolls under the management of such persons as may appear to them proper and all persons employed in the management and collection of such tolls shall be liable to the same responsibilities as would belong to them if employed in the collection of the land revenue [5]

Their powers for recovery of toll

3 In case of non payment of any such toll on demand, the officers appointed to collect the same may seize any of the carriages or animals on which it is chargeable, or any part of their burden of sufficient value to defray the toll, and, if any toll remains undischarged for twenty four hours, with the cost arising from such seizure, the case shall be brought before the officer appointed to superintend the collection of the said toll, who may sell the property seized for discharge of the toll, and all expenses occasioned by such non payment, seizure and sale, and cause any balance that may remain to be returned, on demand, to the owner of the property, and the said officer, on receipt of the property, shall forthwith issue a notice that, at noon of the next day, exclusive of Sunday, or any closed holiday, he will sell the property by auction

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Dera Ismail Khan and Dera Ghazi

in that part of the Hazara District known as Upper Tanawal by the Hazara (Upper Tanawal) Regulation 1900 (2 of 1900) s 3] — See Gazette of India, 1886 Pt I p 48

The District of Lahaul — Ditto 1886 Pt I p 301

1934 Pt I p 179

It has been

may be or have been See the Indian Tolls Act, 1888 (8 of 1888) s 2 (1)

[2] The words not exceeding the rates mentioned in the schedule annexed to this Act rep by s 2 and Schedule I of the Devolution Act 1920 (38 of 1920)

[3] Subs by the A O for as they respectively think fit see paragraph 5 (2)

[4] Subs by the A O for at the expense of the Govt

[5] S 2 has been modified in its application to the C P by the Indian Tolls (C P Amendment) Act, 1932 (C P Act 8 of 1932)

Release of seized property on tender of dues.

Provided that, if, at any time before the sale has actually begun, the person whose property has been seized shall tender the amount of all the expenses incurred, and of double the toll payable by him, the said officer shall forthwith release the property seized.

Exemptions from payment of toll.

4. No tolls shall be paid for the passage[1] * * * * * * * * of Police-officers on duty, or of any person or property in their custody, but no other exemption from payment of the toll levied under this Act shall be allowed.[2]

Assistance of collectors by Police-officers.

5. All Police-officers shall be bound to assist the toll-collectors, when required, in the execution of this Act; and, for that purpose, shall have the same power which they have in the exercise of their common police-duties.

Penalty for offences under Act.

6. Every person, other than the persons appointed to collect the tolls under this Act, who shall levy or demand any toll on any public road or bridge, or for passing through any bazar situated thereon, and also every person who shall unlawfully and extortionately demand, or take any other or higher toll than the lawful toll, or under colour of this Act seize or sell any property knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money or any valuable thing from any person under colour of this Act, shall be liable *on conviction before a Magistrate to imprisonment* for any term not exceeding six calendar months, or to fine not exceeding two hundred rupees, any part of which fine may be awarded by the Magistrate to the person aggrieved; but this remedy shall not be deemed to bar or affect his right to have redress by suit in the Civil Court[3] * * *.

Compensation to person aggrieved. Saving of his right to sue.

Exhibition of table of tolls, and statement of penalties.

7. A table of the tolls authorized to be taken at any toll-gate or station shall be put up in a conspicuous place near such gate or station legibly written or printed in English words and figures, and also in those of the vernacular language of the district, to which shall be annexed, written or printed in like manner, a statement of the penalties for refusing to pay the tolls and for taking any unlawful toll.[4]

Application of proceeds of tolls.

8. The tolls levied under this Act shall be deemed public revenue[5] * * *[6].

[*Schedule.*] *Rep. by s. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920).*

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[1] The words "of troops and military stores and equipages on their march or" rep. by s. 8 of the Indian Tolls (Army) Act, 1901 (2 of 1901).

[2] This section has been amended in Assam by the Indian Tolls (Amendment) Act, 1931 (Assam 3 of 1931) and in the C.P. by the Indian Tolls C. P. (Amendment) Act, 1932 (C. P. 8 of 1932).

[3] The words "of the Zillah" rep. by the Repealing Act, 1876 (12 of 1876).

[4] After s. 7, ss. 7A and 7B have been inserted in Assam by the Indian Tolls (Amendment) Act, 1932 (Assam 1 of 1932).

[5] The words "but the net proceeds thereof shall be applied wholly to the construction, repair and maintenance of roads and bridges within the presidency in which they are levied" rep. by the A. O. The word "presidency" is to be deemed to have meant the territories under the administration of any L. G.—*See* the Indian Tolls Act, 1888 (8 of 1888), s. 2 (2), since repealed. *See* also, in this connection, paragraph 4(*b*) of the India and Burma (Transitory Provisions) Order, 1937.

[6] This Section has been repealed in Assam by the Indian Tolls (Amendment) Act, 1932 (Assam 1 of 1932).

[1][THE SHERIFFS' FEES ACT, 1852.]

ACT No VIII OF 1852.

[*6th February, 1852*]

An Act for remunerating the Sheriffs of Calcutta, Madras and Bombay for the execution of Mufassal Process under Act XXIII of 1840[2]

FOR making better provision for the Sheriffs of Calcutta, Madras and Bombay, in remuneration for the execution of legal process issued by Courts out of the said towns, respectively, It is enacted as follows — Preamble.

1 to 7 *Rep by the 4 O*

8 If any person taken in execution on any such process shall escape out of the legal custody of the Sheriff, the Sheriff shall not be liable to an action of debt for such escape, but shall be liable only to an action upon the case for damages in consequence of such escape sustained by the person or persons at whose suit the prisoner was taken Liability of Sheriff in case of escape of person taken in execution.

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[3][THE LANDHOLDERS' PUBLIC CHARGES AND DUTIES ACT, 1853.]

ACT No. II OF 1853.

[*4th February, 1853*]

An Act to remove doubts as to the liability of all subjects of Her

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[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897)

This Act has been declared, by notification under s 3 of the Scheduled Districts Act, 1874 (14 of 1874) to be in force in the following Scheduled Districts, namely —

Sind	*See* Gazette of India 1880, Pt I, p 6
[illegible]	
	Ditto 1881, Pt I, p 504

[2] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898), s 3 *See* also the Code of Civil Procedure (Act 5 of 1908), s 3

[3] Short title given by the Indian Short Titles Act, 1897 (14 of 1897)

The Act has been declared to be in force in the whole of British India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s 3

It has been declared in force in the Santhal Parganas, by the Santhal Parganas Settlement Regulation 1886 (3 of 1886) s 2

It has been declared by notification under s 3(*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely —

Sind	*See* Gazette of India, 1880 Pt I, p 672.
[illegible]	Ditto 1881, Pt I, p 74
the [illegible] in the District of Singbhum . . .	Ditto 1881, Pt I, p 504.

Majesty to the same jurisdictions as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers.

Preamble.

WHEREAS by virtue of [1]Act No. IV of 1837 it is lawful for any subject of Her Majesty to acquire and hold in perpetuity, or for any term of years, property in land, or in any emoluments issuing out of land, in any part of the territories under the government of the East India Company;

and whereas doubts have arisen whether all subjects of Her Majesty acquiring or holding property in land, or in any emoluments issuing out of land, or acting as local agents or managers of such property, are subject to the same jurisdictions as Natives for enforcing the discharge of public and police duties incident to the holding of such property, or for the enforcement of public charges and assessments upon or in respect thereof;

and whereas it is just and reasonable that all persons who may think fit to hold such property, or to be the local agents or managers thereof, should be liable to the public burthens and duties incident thereto, and in case of neglect or refusal to discharge the same, should be subject to the same jurisdictions as Natives;

It is therefore declared and enacted as follows:—

Non-exemption from public charges or duties of landholders, etc., by reason of place of birth or of descent.

1. No person whatever, being the owner, holder or framer of any property in land, or in any emoluments issuing out of land, in any part of the said territories, whether in perpetuity or for a term, or being a local agent or manager of any such property, is, by reason of his place of birth, or by reason of his descent, exempt from any public charge or assessment, or from any duty connected with the police, or with the salt or opium revenue, or from any duty whatsoever of a public nature, to which he would otherwise be

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The Scheduled portion of the Mirzápur District	*See* Gazette of India,	1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.
The Districts of Hazára, Peshávar, Kohát, Bannu, Dera Ismail Khán and Dera Ghazi Khán. [*Portions of the Districts of Hazára, Bannu, Dera Ismail Khán and Dera Ghazi Khán and the Districts of Peshávar and Kohát now form the N.-W. F. P., see Gazette of India, 1901, Pt. I, p. 857, and* ibid, *1902, Pt. I, p. 575; but its application has been barred in that part of the Hazára District known as Upper Tanawal, by the Hazára (Upper Tanawal) Regulation 1900 (2 of 1900), s. 3*] . . .	Ditto	1886, Pt. I, p. 48.
The District of Lahaul . . .	Ditto	1886, Pt. I, p. 301.
The Scheduled Districts of the C. P. .	Ditto	1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
The District of Sylhet	Ditto	1879, Pt. I, p. 631.
The rest of Assam (except the North Lushái Hills)	Ditto	1897, Pt. I, p. 299.
The Porahat Estate in the Singbhum District	Ditto	1897, Pt. I, p. 1059.

It has been extended, by notification under s. 5 of the last-mentioned Act to the Scheduled Districts of Kumáon and Garhwál. *See* Gazette of India, 1876, Pt. I, p. 606.

[1] The Property in Land Act, 1837 (4 of 1837).

ect, as the owner or holder of such property, or as a local agent or manager subjeof

ther 2 For the non payment of any such public charge or assessment, or for breach of any such duty as aforesaid, or for any neglect or misconduct the in the discharge thereof, every person whatever may have been his place of in th, or his descent, shall be subject to the same laws, regulations and pro birth, and to the same jurisdictions, as if he were a Native of the said terri cedures tories

Amenability to laws etc, for default in respect of such charges and duties

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[THE SHORE NUISANCES (BOMBAY AND KOLABA) ACT, 1853][1]

ACT NO XI OF 1853.

[15th July, 1853]

An Act to facilitate the removal of nuisances and encroachments below high water mark in the Islands of Bombay and Kolaba

WHEREAS there is a large sea shore in the islands of Bombay and Kolaba, and it is expedient, with a view to the safe navigation of the harbour of Bombay and to the public interests generally, to facilitate the removal of nuisances, obstructions and encroachments below high water mark in the said harbour, or upon or about the shores of the said islands, It is enacted as follows — Preamble

1. It shall be lawful for the Collector of Land revenue at Bombay to give notice requiring the removal of any nuisance, obstruction or encroachment anywhere below high water mark in the said harbour of Bombay or upon or about the shores of the said islands, such notice shall be given by affixing the same in some conspicuous place on or near to the encroachment, obstruction or nuisance complained of, and by publication thereof in the [2][Official Gazette] and shall state that, unless the nuisance, obstruction or encroachment be removed or abated within one month, the same will be removed or abated by the said Collector, such notice may be in the Form No 1 in the schedule to this Act annexed, or to the like effect

Power to give notice to remove nuisance

Mode of giving notice

Contents

Form

2 If any person shall deny the right of the said Collector to effect such abatement or removal he shall, within one month after such notice shall have been given as aforesaid, apply to the Supreme Court of Judicature at Bombay by petition, setting forth the grounds of his alleged right and praying that the said Collector may be restrained from causing such abatement or removal,

Petition by person denying right to remove nuisance

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[1] This Act so far as it relates to the removal of any obstruction impediment or public nuisance affecting or likely to affect the navigation of the port of Bombay, rep by Act 22 of 1855 Short title given by the Bombay Short Titles Act, 1921 (Bom Act 2 of 1921)

[2] Subs by the A O for Bombay Govt Gazette

Procedure thereupon.

and the said Court may thereupon (on the petitioner's giving sufficient security for costs), fix a time for hearing and adjudicating upon such petition, and give such directions and make such orders as the said Court may think just, and the said Court may also make an order for restraining the alleged nuisance, obstruction on encroachment from being extended, or from being abated or removed by the said Collector, until after adjudication upon the said petition, or the dismissal thereof for want of prosecution.

Onus of proving right.

3. Upon the hearing of every such petition, the onus of proving the alleged right shall be on the petitioner.

Limitation of time for petition.

4. No person shall be allowed, after the expiration of such period of one month, to present any such petition as aforesaid, unless on satisfactorily accounting to the said Court for the delay.

When Collector may cause removal of nuisance.

Form of Warrant.

Indemnity.

5. If no such petition shall be presented within the said period of one month, or if the same be presented and determined against the right of the petitioner, or be dismissed for want of prosecution, it shall be lawful for the Collector to cause such abatement or removal as aforesaid by any person or persons to be authorized by warrant under his hand, and such warrant may be in the form No. 2 in the schedule to this Act annexed, or to the like effect; and the said Collector, and any person acting under his warrant, shall not be answerable for any damage unavoidably occasioned in the removal of any such nuisance, obstruction or encroachment.

Power to sell materials of encroachment.

6. The said Collector may sell the materials of any encroachment or obstruction removed under this Act, and may apply the proceeds of sale in or towards payment of the expenses of the removal, and, if any surplus shall remain, the same shall be forfeited, and be paid and applied in such manner as the [1][Central Government] shall direct.

Saving of rights of Crown.

7. Nothing in this Act shall prejudice or affect the rights of [2]* * * * * the Crown in any part of the said harbour, or of the sea-shore of the said islands, or preclude or interfere with any such proceedings, civil or criminal, for abating such nuisances and encroachments as aforesaid, as might have been had if this Act had not been passed.

"High-water mark" defined.

8. The words "high-water mark" in this Act shall mean the ordinary line of high-water at monsoon tides.

SCHEDULE.

FORM No. 1.

NOTICE is hereby given by the Collector of Land-revenue in Bombay, under Act No. XI of 1853, that (*describe the encroachment*) is to be removed or abated within one month from the date hereof; otherwise the same will be

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[1] Subs. by the A. O. for "Governor of Bombay in Council".
[2] The words "the East India Company as trustees for", rep. by the Repealing Act, 1870 (14 of 1870).

removed or abated by the said Collector under the authority of the said Act.
Dated the day of in the year of our Lord

(*Signature of Collector*)

FORM No 2

THIS warrant granted by the Collector of Land revenue in Bombay, under Act No XI of 1853, is to authorize of to remove (*describe encroachment*)

(*Signature of Collector*)

Dated

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[1][THE RECUSANT WITNESSES ACT, 1853]

ACT No XIX OF 1853

[*2nd December, 1853*]

An Act to amend the Law of Evidence in the Civil Courts of the East India Company in the Bengal Presidency.

1-18. [*Repeals, who may be witnesses, manner of summoning witnesses, contents of summons, summons how served, person summoned to produce a document*] *Rep by Act X of 1861*

19. [*Witness not a party to suit not bound to produce his own title deeds*] *Rep by the Indian Evidence Act, 1872 (I of 1872)*

20-25. [*Privileged communications, punishment for non compliance with summons*] *Rep by Act X of 1861*

26. Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded or kept out of the way to avoid being served with such summons,

Persons absconding, etc, to avoid service of summons, etc, liable for damages

and any person who, being in Court and upon being required by the Court to give evidence or produce a document in his possession, shall, without lawful excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession,

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[1] Short title given by the Amending Act, 1897 (5 of 1897), Sch III
S 26 has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in Assam (except the North Lushai Hills) *see* Gazette of India, 1879, Pt I, p 631 and Gazette of India 1897, Pt I, p 299
The section has been repealed except in Assam by the Amending Act, 1903 (1 of 1903)

shall [1] * * * be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence, or produce the document, for all damages which he may sustain in consequence of such neglect, or refusal, or of such absconding, or keeping out of the way as aforesaid, to be recovered in a civil action.

27-39. [*Property of person absconding liable for damages ; costs and fines ; appeal ; postponement of trial ; evidence to be taken down ; evidence of females ; power to require further evidence ; false evidence of parties punishable ; deposition by parties not to be used in their own favour ; no appeal against order for summons of witnesses.*] *Rep. by Act X of 1861.*

40. [*Documents referred to as a material proof to be filed with pleadings.*] *Rep. by Act X of 1855.*

41-44. [*Local extent ; commencement.*] *Rep. by Act X of 1861.*

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[2][THE LEGAL PRACTITIONERS ACT, 1853.]

ACT NO. XX OF 1853.

[*8th December, 1853.*]

An Act to amend the Law relating to Pleaders in the Courts of the East India Company.

WHEREAS it is expedient to amend the law relating to Pleaders in the Courts of the East India Company ; It is enacted as follows :—

1. [*Repeal of enactments.*] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

Pleader not bound to attend Court except at hearing of cause in which he is employed.

2. [3]No pleader shall be bound to attend in any of the Courts of the East India Company, on any day fixed for the transaction of civil business, or to notify to the Court his inability to attend, unless he shall be employed in some cause or business which, according to the practice of the Court, may be heard or transacted therein on that day, anything in any law or regulation to the contrary notwithstanding.

Right of Supreme Court attorneys to

3. Every attorney on the roll of any or Her Majesty's Supreme Courts of Judicature in India shall be entitled as such to plead in any of the Sadr Courts of the East India Company, subject however to all the rules for the

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[1] The words "in addition to any proceedings under this Act," rep. by the Amending Act, 1891 (12 of 1891).

[2] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

The Act has been declared to be in force in the Madras and Bombay Presidencies, except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), ss. 4 and 5.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Scheduled District of Sind, *see* Gazette of India 1880, Pt. I, p. 672, and in the Scheduled Districts in Ganjam and Vizagapatam, *see ibid*, 1898, Pt. I, p. 870.

It has been rep. in places to which the Pleaders, Mukhtars and Revenue Agents Act, 1865 (20 of 1865), is extended, by s. 3 of that Act ; and in places to which the [illegible] Act, 1879 (18 of 1879), applies, by the Legal Practitioners Act, 1884 (9 of 1884), s. 9. Act 20 of 1865 rep. by Act 18 of 1879.

[3] Section 2 rep. in Bombay by the Bombay Pleaders Act, 1920 (Bom. Act 17 of 1920).

time being in force in the said Sadr Courts respectively, applicable to barristers pleading therein, whether relating to the language in which the Court is to be addressed or to any other matter

plead in all Sadr Courts

4. That part of section 4, Act No I of 1846, which provides that no person shall be admitted a pleader in any of the Courts of the East India Company, unless he have obtained a certificate in such manner as shall be directed by the Sadr Courts that he is of good character and duly qualified for the office, shall not extend to barristers or attorneys of any of the said Supreme Courts, but every such barrister and attorney shall be entitled as such to plead in any of the Courts of the East India Company subordinate to the Sadr Courts, subject to all the rules in force in the said subordinate Courts respectively applicable to pleaders therein, so far as such rules relate to the language in which the Court is to be addressed or to any other matter connected with pleading therein

Barristers and attorneys of Supreme Courts not required to produce certificate of character etc, but may plead in all subordinate Courts

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Act No V of 1854.

[10th February, 1854]

An Act to amend Act No V of 1838, relating to the Bengal Bonded Warehouse Association.

Whereas the Bengal Bonded Warehouse Association are desirous that the provisions of Act No V of 1838 should be amended, and it appears reasonable that such amendment should be made, it is enacted as follows

Preamble.

1. Sections 12, 14, 32 and 37 of the said Act are hereby repealed.

Repeal of sections 12, 14, 32 and 37, Act V of 1838.

2. The business of the said Association shall be managed by six Directors, three of whom shall form a quorum

Management of business

3. The two Directors who are to go out of office by rotation in every year shall go out of office in the month of May, before the holding of the Ordinary General Meeting of Proprietors directed to be holden in that month, and at such Ordinary General Meeting two Directors shall be chosen, and the Directors so going out of office, or either of them shall be capable of being re-elected in the same year at such General Meeting

Annual election of Directors

4 No person shall be capable of being a Director of the said Association who shall not be a proprietor in his own right of five shares of the capital stock of the said Association

Qualification of Directors

5. Ordinary General Meetings of the said proprietors shall be held at least twice in every year, that is to say, on the second Wednesday in the month of May, and the second Wednesday in the month of November, and at every such Ordinary Meeting the Directors of the said Association shall present a report in writing of the state of the affairs of the said Association and a balance-sheet; and such General Meeting may declare a dividend out of the profits

Ordinary General Meetings

of the said Association, provided that no dividend shall be made which shall diminish the capital of the said Association.

Bye-laws.

6. It shall be lawful for the said Association to make Bye-laws for the Regulation of its own proceedings, which Bye-laws shall be binding only on its own Members and Officers, provided that no such Bye-law shall be valid till it shall have been approved of by one Extraordinary General Meeting of proprietors especially convened for that purpose, provided also that no such Bye-law shall be valid till it shall have been confirmed by the Governor of the Presidency of Fort William in Bengal.

Dissolution of Corporation.

7. At any time after the 14th day of March, 1860, it shall be lawful for the [1][Central Government] by an Order in Council to direct that the said Association shall be dissolved at the expiration of five years from the date of such order, and such order shall of itself have the effect of dissolving the said Corporation at the expiration of the said space of five years, except for the purposes mentioned in Section 39, Act No. V of 1838.

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[2]Act No. XVI of 1854.

[28th July, 1854.]

An Act to amend [3] Regulation XI of 1831 of the Bengal Code.

Whereas the provisions of section 3 and section 7 of [3]Regulation XI, 1831, have been found inconvenient; and whereas it is expedient that [3]Regulation XI, 1831, as amended by this Act, should be extended to the whole of the Province of Benares; It is enacted as follows:—

1. [*Repeal of ss. 3 and 7 of Bengal Regulation XI of 1831.*] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

Darogas of police subject to tahsildars.

2. Wherever any tahsildar shall have police-jurisdiction under the provisions of section 2 of the said [3]Regulation XI, 1831, every daroga of police hereafter appointed within the local limits of the police-jurisdiction of such tahsildar shall be subordinate to, and subject to the control of, such tahsildar, in his capacity of chief Police-thanadar.

Regulation XI, 1831, as amended, extended to Benares.

3. [3]Regulation XI, 1831, as amended by this Act, shall extend to the whole of the Province of Benares, [4]* * .

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[1] Subs. by the A. O. for " G. G. of India in C.".

[2] This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, to be in force in the former North-Western Provinces (now, the Province of Agra) except the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in Kumaon and Garhwal, the Tarai Parganas, the Scheduled portion of the Mirzapur District and in Jaunsar Bawar—*See* Gazette of India, 1879, Pt. I, pp. 382 and 383.

[3] A Regulation for vesting Tahsildars in certain cases with the powers of Police-officers.

[4] The words " and all powers vested by the said Regulation in the G. G. in C. may be exercised by the Lieutenant-Governor of the North-Western Provinces " rep. by the A. O.

[1][THE MALABAR WAR-KNIVES ACT, 1854]

ACT No. XXIV OF 1854.

[*28th October, 1854*]

An Act to prohibit the possession of certain offensive weapons in Malabar.

Preamble

WHEREAS it is expedient to prohibit the possession of certain offensive weapons in the District of Malabar, in the Presidency of Fort St George, It is enacted as follows —

Use of war knives prohibited

1. The use of the ayudha katti or war knife, or of any similar offensive weapon, is hereby prohibited throughout the District of Malabar [2]* * *.

Fine for possessing, purchasing, etc, war knives

2. [3]* * * Any person who shall be found in possession of any ayudha katti or war knife or of a similar offensive weapon, or who shall purchase, or sell, or manufacture, or cause to be manufactured, any ayudha katti or war knife or similar weapon, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or to both, and the said war knife or weapon shall be confiscated

Power to search for war knives

3. It shall be lawful for the Magistrate of Malabar to cause search to be made by his Police officers, acting under his warrant, in any house or other place in which any ayudha katti or war knife, or any similar offensive weapon, may be supposed to be, contrary to this Act, and any such ayudha katti or war knife which shall be found may be seized and confiscated

It shall also be competent to the Magistrate, at his discretion, to delegate to any of his European Assistants the powers conferred by this section

Penalty for resisting search

Any person who shall resist or oppose such search or seizure, or forcibly withstand any Police officer charged with such warrant, shall be liable to the same penalties as if such person had opposed or resisted the execution of a warrant for the search after stolen goods

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[4][THE CONVEYANCE OF LAND ACT, 1854]

CONTENTS.

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[1] Short title given by the Amending Act, 1901 (11 of 1901)

[2] Certain words providing for the surrender of weapons by a certain date rep by the Repealing Act, 1870 (14 of 1870)

[3] The words ' After such date ' rep by *ibid*

[4] Short title given by the Indian Short Titles Act, 1897 (14 of 1897)

An Act [1] * * * * to simplify the modes of conveying land in cases to which the English Law is applicable.

WHEREAS it is expedient, in cases to which the English law applies [1] * * * * to simplify the modes of conveying land, and to exempt the purchasers of trust property from the liability to see to the application of the purchase money, It is enacted as follows — **Preamble.**

1. [*Real actions, fines and recoveries abolished*] *Rep by the Repealing Act, 1870 (XIV of 1870)*

2. Every tenant in tail or other owner of an estate of inheritance less than an estate in fee simple, either at law or in equity, in any lands or heredita ments, not being under any disability, shall have power to dispose of such lands and hereditaments against the issue in tail, and all persons whose estates are to take effect after the determination or in defeazance of his own, or to enlarge his said estate into an estate in fee simple, by any deed declaring an intention so to dispose of the said lands or hereditaments, or to enlarge his estate therein, and every tenant in tail or other owner of an estate of inheri tance less than an estate in fee simple, who shall be under the disability of coverture, shall have power to dispose of or enlarge her said estate in manner aforesaid, by any deed declaring her intention so to do, and acknowledged by her as hereinafter mentioned **Tenant in tail may dispose of or enlarge his estate by simple deed, etc**

Provided that every disposition under this section shall be subject to the rights of all persons in respect of estates prior to the estate tail or other estate of inheritance which is the subject of such disposition, and the rights of all other persons, except those against whom such disposition is by this Act authorized to be made

3. Every married woman who, either alone, or jointly with her husband is possessed of or entitled to any estate or interest in or any power to be exer cised over, any lands or hereditaments, which, but for the passing of this Act, she might have disposed of or extinguished by levying a fine, or suffering a recovery, or by joining in either of such assurances, shall have power by deed, to be acknowledged by her as hereinafter mentioned, to dispose of, **Married woman, with husband's concurrence, may dispose of her estate by deed acknowledged**

The Scheduled Districts of the C P	*See* Gazette of India	1879 Pt I, p 771
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt I, p 870
The District of Sylhet	Ditto	1879, Pt I, p 631
The rest of Assam (except the North Lushái Hills)	Ditto	1897, Pt I, p 631

It has been declared, by notification under s 3 (*b*) of the last mentioned Act not to be in force in the Scheduled District of Lahaul *See* Gazette of India, 1886, Pt I, p 301

[1] The words "to abolish real actions and also fines and common recoveries and" rep by the Repealing Act, 1874 (16 of 1874)

holders under defective titles in cases to which the English Law is applicable.

WHEREAS it is expedient, in cases to which the English law is applicable, *to limit the liability for mesne profits and* to secure to *bonâ fide* holders under defective titles the value of improvements made by them, It is enacted as follows — Preamble

No person chargeable with rent *bonâ fide* paid to holder under defective title

1. [1] No person shall be chargeable with any rents or profits of any immoveable property which he has *bonâ fide* paid over to any person of whom he *bonâ fide* held the same, notwithstanding it may afterwards appear that the person to whom such payment was made had no right to receive such rents or profits

Value of improvements made by *bonâ fide* holders under defective titles secured to them.

2. If any person shall erect any building or make an improvement upon any lands held by him *bona fide* in the belief that he had an estate in fee simple, or other absolute estate, and such person, his heirs or assigns, or his or their under tenants, be evicted from such lands by any person having a better title, the person who erected the building or made the improvement, his heirs or assigns shall be entitled either to have the value of the building or improvement so erected or made during such holding and in such belief, estimated *and paid or secured to him or them, or, at the option of the person causing the* eviction, to purchase the interest of such person in the lands at the value thereof, irrespective of the value of such building or improvement

Amount how fixed

Provided that the amount to be paid or secured in respect of such building or improvement shall be the estimated value of the same at the time of such eviction

Act to apply only to cases governed by English Law

3. Nothing in this Act contained shall extend to any case to which the English law is not applicable

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Jaunsar Bawar	*See* Gazette of India	1879, Pt I, p 382
The Districts of Hazára Peshâwar Kohât, Bannu, Dera Ismail Khan and Dera Ghazi Khan [*Portions of the Districts of Hazara, Bannu, Dera Ismail Khan and Dera Ghazi Khan and the Districts of Peshauar and Kohat now form the N W F P, see Gazette of India, 1901, Pt I, p 857 and ibid, 1902, Pt I p 575 but its application to that portion of the Hazara District*		
The	Ditto	1886, Pt I, p 48
	Ditto	1879, Pt I, p 771
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt I p 870
The District of Sylhet	Ditto	1879, Pt I, p 631
The rest of Assam (except the North Lushái Hills)	Ditto	1897, Pt I, p 299

It has been extended by notification under s 5 of the last mentioned Act, to the Scheduled Districts of Kumáon and Garhwál *See* Gazette of India, 1876, Pt I, p 606

It has been declared by notification under s 3 (*b*) of the same Act, not to be in force in the Scheduled District of Lahaul *See* Gazette of India, 1886, Pt I, p 301

[1] The words in italics in the title and in the preamble, together with s 1, rep in places to which the Transfer of Property Act, 1882 extends or is extended *See* the Transfer of Property Act, 1882 (4 of 1882) s 2 and the Schedule.

[1][THE LEGAL REPRESENTATIVES' SUITS ACT, 1855.]

ACT NO. XII OF 1855.

[*27th March, 1855.*]

An Act to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs.[2]

Preamble.

WHEREAS it is expedient to enable executors, administrators or representatives in certain cases to sue and be sued in respect of certain wrongs which, according to the present law, do not survive to or against such executors, administrators or representatives; It is enacted as follows:—

Executors may sue and be sued in

1. An action may be maintained by the executors, administrators or representatives of any person deceased for any wrong committed in the

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[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been declared to be in force in the whole of British India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has also been declared in force in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3, and in the Santhál Parganas by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), *to be in force in the following Scheduled Districts, namely*:—

Sind	*See* Gazette of India,	1880, Pt. I, p. 672.
West Jalpáiguri	Ditto	1881, Pt. I, p. 74.
The Districts of Hazáribágh, Lohardaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	Ditto	1881, Pt. I. p. 504.
The Scheduled portion of the Mirzápur District	Ditto	1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.
The Districts of Hazára, Peshávar, Kohát, Bannu, Dera Ismail Khán and Dera Gházi Khán. [*Portions of the Districts of Hazára, Bannu, Dera Ismail Khán and Dera Gházi Khán and the Districts of Peshávar and Kohát now form the N.-W. F. P.,* see *Gazette of India, 1901, Pt. I, p. 857, and* ibid., *1902, Pt. I, p. 575; but its application to that part of the Hazára District known as Upper Tanawal has been barred by the Hazára (Upper Tanawal) Regulation, 1900 (2 of 1900)*]	Ditto	1886, Pt. I, p. 48.
The District of Lahaul	Ditto	1886, Pt. I, p. 301.
The Scheduled Districts of the C. P. . .	Ditto	1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
The District of Sylhet	Ditto	1879, Pt. I, p. 631.
The rest of Assam (except the North Lushái Hills)	Ditto	1897, Pt. I, p. 299.
The Porahat Estate in the Singbhum District	Ditto	1897, Pt. I, p. 1059.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely :—

Kumáon and Garhwál	*See* Gazette of India,	1876, Pt. I, p. 606.
The Tarái of the Province of Agra . .	Ditto	1876, Pt. I, p. 505.

[2] *See* the Civil Procedure Act, 1833 (3 & 4 Will. 4, c. 42), s. 2.

time of such person, which has occasioned pecuniary loss to his estate, for which wrong an action might have been maintained by such person, so as such wrong shall have been committed within one year before his death [1]* * , and the damages, when recovered, shall be part of the personal estate of such person: — certain cases for wrongs committed in lifetime of deceased

and further, an action may be maintained against the executors or administrators or heirs or representatives of any person deceased for any wrong committed by him in his lifetime for which he would have been subject to an action, so as such wrong shall have been committed within one year before such person's death [2] * * * , and the damages to be recovered in such action shall, if recovered against an executor or administrator bound to administer according to the English law, be payable in like order of administration as the simple contract debts of such person

2. No action commenced under the provisions of this Act shall abate by reason of the death of either party, but the same may be continued by or against the executors, administrators or representatives of the party deceased, — Death of either party not to abate suit

Provided that, in any case in which any such action shall be continued against the executors, administrators or representatives of a deceased party, such executors, administrators or representatives may set up a want of assets as a defence to the action, either wholly or in part, in the same manner as if the action had been originally commenced against them — Proviso

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[3][THE INDIAN FATAL ACCIDENTS ACT, 1855]

Act No XIII of 1855

[*27th March, 1855*]

An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong

Whereas no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect or default, may have caused the death of another person, and it is often times right and expedient that the — Preamble.

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[1] The words "and provided such action shall be brought within one year after the death of such person" rep by the Indian Limitation Act 1871 (9 of 1871), Sch I For limitation, *see* now the Indian Limitation Act, 1908 (9 of 1908)

[2] The words "and so as such action shall be commenced within two years after the committing of the wrong" rep by s 2, *ibid* For limitation, *see* now the Indian Limitation Act, 1908 (9 of 1908)

[3] Short title given by the Indian Short Titles Act 1897 (14 of 1897)

Based on the Fatal Accidents Act, 1846 (9 & 10 Vict, c 93)

This Act has been declared to be in force in the whole of British India, except the Scheduled Distr

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wrong-doer in such case should be answerable in damages for the injury so caused by him; It is enacted as follows :—

Suit for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.

1. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensured shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime.

[1]* * * Every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased;

and in every such action the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought; and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the beforementioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

Sind	*See* Gazette of India,	1880, Pt. I, p. 672.
West Jalpáiguri	Ditto	1881, Pt. I, p. 74.
The Districts of Hazáribagh, Lohardaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	Ditto	1881, Pt. I, p. 504.
The Scheduled portion of the Mirzápur District	Ditto	1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.
The Scheduled Districts of the Punjab (some of these and portions of others now form the N.-W. F. P.) . .	Ditto	1881, Pt. I, p. 483.
The Scheduled Districts of the C. P. .	Ditto	1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
The District of Sylhet	Ditto	1879, Pt. I, p. 631.
The rest of Assam (except the North Lushái Hills)	Ditto	1897, Pt. I, p. 299.
The Porahat Estate in the Singbhum District	Ditto	1897, Pt. I, p. 1059.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely :—

Kumáon and Garhwál	*See* Gazette of India,	1876, Pt. I, p. 606.
The Tarái of the Province of Agra . .	Ditto	1876, Pt. I, p. 505.

[1] The words "And it is enacted further that" rep. by Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

2. Provided always that not more than one action or suit shall be brought for, and in respect of the same subject-matter of complaint 1* * * : *Not more than one suit to be brought*

Provided that, in any such action or suit, the executor, administrator or representative of the deceased may insert a claim for and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the estate of the deceased *Claim for loss to estate may be added*

3. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered *Plaintiff shall deliver particulars, etc*

4. The following words and expressions are intended to have the meaning hereby assigned to them respectively, *so far as such meanings are not excluded* by the context or by the nature of the subject matter, that is to say 2* * * the word "person" shall apply to bodies politic and corporate, and the word "parent" shall include father and mother 3 and grand father and grand-mother, and the word "child" shall include son and daughter and grand-son and grand daughter and step son and step daughter *Interpretation clause.*

4[THE MORTGAGED ESTATES ADMINISTRATION ACT, 1855]

ACT NO XXIII OF 1855

[*13th August, 1855*]

An Act to amend the Law relating to the administration of the

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desc as to 1868 (8 of 1868)

This Act has been declared, as regards such descents and devises, to be in force in the whole of *British India, except the Scheduled Districts, by the Laws Local Extent Act, 1874* (15 of 1874), s 3

It has been declared, by notification under s 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely —

West Jalpáiguri .	*See* Gazette of India, 1881, Pt I, p 74	
The Districts of Hazaribagh, Lohardaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt I, p 44), and Manbhum, and Pargana Dhalbhum and the Kolhán in the District of Singbhum . .	Ditto	1881, Pt I, p 504.
The Scheduled portion of the Mirzapur District	Ditto	1879, Pt I, p 383.

Estates of deceased persons charged with money by way of Mortgage.

Preamble.

WHEREAS it is expedient that the law, under which the real and personal assets of deceased persons subject to the English law are administered, should be amended; It is enacted as follows:—

Heir or devisee of land not to claim payment of mortgage out of personality.

1. [1]* * * * * If any person shall die seised of, or entitled to, any estate or interest in any land or other hereditaments within [2][British India] which shall, at the time of his death, be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not by his will or deed or other document have signified any contrary or other intention, the heir or devisee to whom such land or hereditaments shall descend or be devised shall not be entitled to have the mortgage-debt discharged or satisfied out of the personal estate or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person be primarily liable to the payment of all mortgage-debts, with which the same shall be charged, every part thereof, according to its value bearing a proportionate part of the mortgage-debts charged on the whole thereof:

Proviso as to right of mortgagee to satisfaction, from personal assets.

Provided always that nothing herein contained shall affect or diminish any right of the mortgagee of such lands or hereditaments to obtain full payment or satisfaction of his mortgage-debt, either out of the personal estate of the person so dying as aforesaid or otherwise:

Proviso as to claims made prior to this Act.

Provided also that nothing herein contained shall affect the rights of any person claiming under, or by virtue of any will, deed or document already made, or to be made, before this Act shall have come into operation.

Jaunsar Báwar	*See* Gazette of India,	1879, Pt. I, p. 382.
The Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismail Khán and Dera Ghází Khán. [*Portions of the Districts of Hazára, Bannu, Dera Ismail Khán and Dera Ghází Khán and the Districts of Pesháwar and Kohát now form the N.-W.F.P.*, see *Gazette of India, 1901, Pt. I, p. 857, and* ibid, *1902, Pt. I, p. 575; but its application to that part of the Hazára District known as Upper Tanawal has been barred by the Hazára (Upper Tanawal) Regulation, 1900 (2 of 1900)*]	Ditto	1886, Pt. I, p. 48.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
The District of Sylhet	Ditto	1879, Pt. I, p. 631.
The rest of Assam (except the North Lushái Hills)	Ditto	1897, Pt. I, p. 299.

It has been declared, by notification under s. 3 (*b*) of the last-mentioned Act, not to be in force in the Scheduled District of Lahaul. *See* Gazette of India, 1886, Pt. I, p. 301.

[1] The words "After this Act shall have come into operation" rep. by the Repealing Act, 1874 (16 of 1874).

[2] Subs. by the A. O. for "the territories in the possession of, and under the Govt. of the East India Company".

[1][THE PENAL SERVITUDE ACT, 1855.]

ACT NO. XXIV OF 1855.

[*13th August, 1855*]

An Act to substitute penal servitude for the punishment of Transportation in respect of European and American Convicts * * * * *

WHEREAS, by reason of the difficulty of providing a place to which Europeans or Americans can, with safety to their health, be sent for the purpose of undergoing sentences of transportation or of imprisonment for long terms it — Preamble.

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[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been declared to be in force in the whole of British India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3

It has been declared in force in—

British Baluchistan, by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s 3, and the Santhal Parganas, by the Santhal Parganas Settlement Regulation (3 of 1872), s 3.

It has been declared, by notification under s 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely —

Sind	*See* Gazette of India,	1880, Pt I, p 672
West Jalpáiguri and the Western Duars	Ditto	1881, Pt I, p 74.
The Districts of Hazaribagh, Lohardaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt I, p 44), and Mánbhum, and Pargana Dhalbhum, and the Kolhán in the District of Singbhum	Ditto	1881, Pt I, p 504
The Scheduled portion of the Mirzápur District	Ditto	1879, Pt I, p 383.
Jaunsar Bawar	Ditto	1879, Pt I, p 382
The Districts of Hazara, Pesháwar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khán [*Portions of the Districts of Hazara, Bannu, Dera Ismail Khan, Dera Ghází Khán and the Districts of Peshawar and Kohat now form the N.-W. F. P.*, see *Gazette of India, 1901, Pt I, p. 857, and* ibid, *1902, Pt I, p. 575; but its application to that part of the Hazara District known as Upper Tanawal has been barred by the Hazara (Upper Tanawal) Regulation, 1900 (2 of 1900)*]	Ditto	1886, Pt. I, p. 48.
The Scheduled Districts of the C. P. .	Ditto	1879, Pt I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
The District of Sylhet	Ditto	1879, Pt. I, p. 631.
The rest of Assam (except the North Lushái Hills)	Ditto	1897, Pt. I, p 299.
The Porahat Estate in the Singbhum District	Ditto	1897, Pt I, p. 1059.

It has been declared, by notification under s 3 (*b*) of the last-mentioned Act, not to be in force in the Scheduled District of Lahaul. *See* Gazette of India, 1886, Pt I, p 301.

being kept in penal servitude for life, or for any term of years, all the provisions of this Act shall be applicable to such offender in the same manner as if he had been lawfully sentenced under this Act to the term of penal servitude specified in the condition

granted upon condition of penal servitude.

5. [*Power to substitute penal servitude for transportation*] *Rep by the Prisoners Act, 1871 (V of 1871)*

6. [*Mode of dealing with person under sentence of penal servitude*] *Rep by the Prisoners Act, 1871 (V of 1871)*

7. [*Application of enactments respecting transportation and imprisonment with hard labour*] *Rep by the Prisoners Act, 1871 (V of 1871)*

8. [*Removal of convicts under sentence of imprisonment from one prison to another*] *Rep by the Presidency Jails Act, 1867 (XII of 1867), and the Repealing and Amending Act, 1914 (10 of 1914)*

9, 10, 11 and **12.** [*Licenses to convicts under sentence of penal servitude to be at large*] *Rep by the Prisoners Act, 1871 (V of 1871)*

Act not to affect the provisions of certain English Statutes

13 Nothing in this Act is intended to alter or affect the provisions of the 12 & 13 Victoria Chapter 43,[1] or any Act of Parliament passed in the United Kingdom of Great Britain and Ireland since the 28th of August, 1833, or which may hereafter be passed

Sentence when proof that a person is a European or an American

14. Any sentence or order upon any person describing him as a European or American shall be deemed for the purposes of this Act, to be conclusive of the fact that such person is a European or American within the meaning of this Act

Interpretation clause

15. The word "European," as used in this Act shall be understood to include any person usually designated a [2]European British subject [3]* * *

16 [*Commencement of Act*] *Rep by the Repealing Act, 1870 (XIV of 1870)*

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[4][THE USURY LAWS REPEAL ACT, 1855]

ACT NO XXVIII OF 1855

[*19th September, 1855*]

An Act for the repeal of the Usury Laws

Preamble

WHEREAS it is expedient to repeal the laws now in force relating to usury, It is enacted as follows —

1. [*Repeal of enactments*] *Rep by the Repealing Act, 1870 (XIV of 1870)*

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[1] "An Act for punishing mutiny and desertion of officers and soldiers in the service of the East India Company, and for regulating in such service the payment of regimental debts and the distribution of effects of officers and soldiers dying in the service" *Rep* by 20 & 21 Vict, c 66 (Mutiny, East India)

[2] See definition of European British subject in s 4, cls (*h*) and (*i*) of the Code of Criminal Procedure 1898 (Act V of 1898)

[3] Last part of this section rep by Sch II of the Repealing and Amending Act 1914 (10 of 1914)

[4] Short title given by the Indian Short Titles Act, 1897 (14 of 1897)

This Act has been declared to be in force in the whole of British India, except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s 3

Rate of interest to be decreed by Courts.

2. In any suit in which interest is recoverable, the amount shall be adjudged or decreed by the Court at the rate (if any) agreed upon by the parties; and, if no rate shall have been agreed upon, at such rate as the Court shall deem reasonable.

Rate of interest upon a judgment or decree.

3. Whenever a Court shall direct that a judgment or decree shall bear interest, or shall award interest upon a judgment or decree, it may order the interest to be calculated at the rate allowed in the judgment or decree upon the principal sum adjudged, or at such other rate as the Court shall think fit.

Contracts for usufruct of property in lieu of interest.

4. A mortgage or other contract for the loan of money, by which it is agreed that the use or usufruct of any property shall be allowed in lieu of interest, shall be binding upon the parties.

Amount of interest to be deposited in certain cases

5. Whenever, under the [1]Regulations of the Bengal Code, a deposit may be made of the principal sum and interest due upon any mortgage or condi-

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It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

Sind	*See* Gazette of India,	1880, Pt. I, p. 672.
West Jalpáiguri, the Western Dvárs, the Western Hills of Dárjiling, the Dárjiling Tarái and the Damson Subdivision of the Dárjiling District	Ditto	1881, Pt. I, p. 74.
The District of Hazáribágh	Ditto	1881, Pt. I, p. 507.
The District of Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44)	Ditto	1881, Pt. I, p. 508.
The District of Mánbhum	Ditto	1881, Pt. I, p. 509.
Pargana Dhálbhum in the District of Singbhum	Ditto	1881, Pt. I, p. 510.
The Scheduled portion of the Mirzápur District	Ditto	1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.
The Districts of Hazára, Peshάwar, Kohát, Bannu, Dera Ismail Khán and Dera Gházi Khán. [*Portions of the Districts of Hazára, Bannu, Dera Ismail Khân and Dera Ghâzi Khân and the Districts of Peshάwar and Kohát now form the N.-W. F. P.*, see *Gazette of India, 1901, Pt. I, p. 857, and* ibid, *1902, Pt. I, p. 575; but its application to that part of the Hazára District known as Upper Tanawal has been barred by the Hazára (Upper Tanawal) Regulation, 1900 (2 of 1900)*]	Ditto	1886, Pt. I, p. 48.
The District of Lahaul	Ditto	1886, Pt. I, p. 301.
The Scheduled Districts of the C. P.	Ditto	1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
The District of Sylhet	Ditto	1879, Pt. I, p. 631.
The Districts of Kámrup, Naugong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Dvárs) and Cachar (excluding the North Cachar Hills)	Ditto	1878, Pt. I, p. 533.

It has been extended, under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumáon and Garhwál	*See* Gazette of India,	1876, Pt. I, p. 606.
The Tarái of the Province of Agra	Ditto	1876, Pt. I, p. 505.

[1] *See* Bengal Reg. 1 of 1798, s. 2. This Regulation is, however, now in force only in the Santhál Parganas and with the exception of the parts which relate to interest, the Regulation is also in force in the Punjab.

tional sale of land hereafter to be entered into, the amount of interest to be deposited shall be at the rate stipulated in the contract, or, if no rate has been stipulated and interest be payable under the terms of the contract, at the rate of twelve per centum per annum Provided that, in the latter case, the amount deposited shall be subject to the decision of the Court as to the rate at which interest shall be calculated

of conditional sales under Bengal Regulations

Proviso

6. In any case in which an adjustment of accounts may become necessary between the lender and the borrower of money upon any mortgage, conditional sale of landed property, or other contract whatsoever, which may be entered into after the passing of this Act, interest shall be calculated at the rate stipulated therein, or, if no rate of interest shall have been stipulated and interest be payable under the terms of the contract, at such rate as the Court shall deem reasonable

Rate of interest on future adjustments of accounts

7. [*Saving of prior transactions*] *Rep by the Repealing Act, 1870 (XIV of 1870)*

8. [*Commencement of Act*] *Rep by the Repealing Act, 1870 (XIV of 1870)*

SCHEDULE OF REPEALED ENACTMENTS

[*Rep by the Repealing Act, 1870 (XIV of 1870)*]

THE BENGAL EMBANKMENT ACT, 1855

CONTENTS

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[1][ACT NO XXXII OF 1855.]

[30th November, 1855.]

An Act relating to Embankments.

WHEREAS the Regulations now in force for the maintenance of embankments in the territories under the Government of the Lieutenant-Governor of Bengal have been found ineffectual for the intended purposes thereof, and whereas it is desirable that provision should be made for the better supervision and protection of the same, It is enacted as follows — Preamble

1. [*Repeal of Bengal Regulations 6 of 1806 and 11 of 1829*] *Rep by the Repealing Act, 1870 (XIV of 1870)*

2. The word " embankment " in this Act means an embankment for the purpose of excluding or retaining water, and every embankment which is now kept up, or may hereafter be kept up, by the officers of [2][the Crown], at the expense either of [2][the Crown] or of any private person, is a public embankment within the meaning hereof "Embankment" defined.

3. The superintendence of the public embankments shall be entrusted, subject to the general orders of [2][the Provincial Government] to an officer who shall be called the Superintendent of Embankments Superintendent of Embankments

4. *Clause 1*—The Superintendent of Embankments may cause any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or is necessary for the protection of the Charge of embankment connecting

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[1] [illegible] 6, to be in force [illegible] the Sundarbans, rep in Assam by the Amending Act, 1897 (5 of 1897), and in the Bengal Presidency by the Bengal Embank[illegible] (Ben Act [illegible] of 18[illegible]), the Bengal Embankment Act, 1873 (Ben Act 6 of 1873), and the Bengal Embankment Act, 1882 (Ben Act 2 of 1882)

[2] Subs by the A O for " Govt "

Annual specifications and estimates for maintaining or improving embankments kept up at expense of *zamindars*

11. *Clause 1*—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments kept up at the expense of *zamindars* or others shall be prepared as soon after the rains in each year as may be practicable

Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments

Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office, and, should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper

Provided, however, that if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent may appeal to the Commissioner, who, subject to the orders of the Board of Revenue and of [1][the Provincial Government], may disallow the construction of the work

Accounts to be forwarded to Collector, who may recover as arrears of Government revenue

Clause 2—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of *zamindars* or others, and in constructing and repairing sluices and making temporary watercourses or roadways through or over any public embankment, or executing any other work the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested

Notice of the receipt of the accounts shall be posted up in the Collector's office, and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall inquire into such objection, and if the objection appear to be well founded, shall communicate the same with his opinion thereon, to the Superintendent of Embankments

If the Superintendent concur with the Collector, he shall pass order accordingly, if he differ, the case shall be reported to the Commissioner whose decision shall be final

When the objection shall have been finally disposed of, or, if no objection be preferred when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process[2] which is or may be in force for the recovery of arrears of Government revenue

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[1] Subs by the A O for Govt

[2] *See* now the Bihar and Orissa Public Demands Recovery Act, 1914 (B and O Act 4 of 1914), ss 4 and 15

Superintendent to report to Collector as to removal of buildings, etc.

12. *Clause 1.*—Whenever the Superintendent of Embankments shall be of opinion that the removal of any houses, huts or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the houses, huts or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts or other buildings stand, is situated.

Collector to give notice to claimants.

Clause 2.—When such report is received the Collector shall cause a notice, containing a general description of the houses, huts or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest *bazar*, calling on all persons claiming a right in such houses, huts or other buildings to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a jury to be appointed in the following manner:—

Selection of jury.

Clause 3.—The Collector shall direct a Deputy Collector or a principal officer of his establishment to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a jury for determining the value of the houses, huts or buildings, and, if any dispute should arise, the rights of the claimants.

Proceedings of jury.

Clause 4.—The jury shall assess the value of each house, hut or building separately.

If in any case they differ, the value shall be assessed according to the opinion of the majority; and, if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote.

Award of jury.

Clause 5.—Having completed their proceedings, the jury shall make their award, which shall contain a schedule of the houses, huts and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same.

The award shall be final and conclusive and not open to question in the Civil Court:

Provided always that any person who was not present at the inquiry, or whose claim may have been set aside by the jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

After award, Collector to give notice of payment, and to remove buildings, etc., in thirty days.

13. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or other officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts or other buildings within thirty days from the date of such notice.

When Collector may remove buildings, etc., at cost of owners.

14. If, on the expiration of the above-stated period, the houses, huts or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled; and if any expense be incurred in removing or levelling the same, the Collector may sell the materials at public

auction in order to defray the charge, delivering any surplus that may remain to the owner

Penalty for obstructing officer in discharge of duty

15. Whoever wilfully obstructs any duly authorized person in removing or levelling any embankment, house, hut or other building shall be liable to be imprisoned for any time not exceeding six months with or without labour, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both

Penalty for wilful damage to embankment by cutting, etc.

16. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys or attempts to destroy any such embankment, or open any sluice or watercourse in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labour, or to a fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both, or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years, with or without labour, or to fine, or to both

Penalty for other wilful damage

17. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river without the permission of the officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam or obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river, or by removing the earth from such embankment, or by grazing or tethering any cattle or other animals on any such embankment, or by driving stakes into or cutting or rooting out grass growing on, such embankment, or by any other wilful act destroys or diminishes the efficiency of such embankment, shall be liable, on conviction before a Magistrate, *to simple imprisonment for a term not exceeding six months, or to a* fine not exceeding two hundred rupees, or to both

Jurisdiction of Deputy or Assistant Magistrate.

18. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by [1]*[any law for the time being in force]*

19. *[Provision of s 13 of Bengal Regulation XX of 1817 extended to this Act] Rep by the Repealing Act, 1874 (XVI of 1874)*

Right of appeal.

20. All sentences and orders passed by a Magistrate, Deputy Magistrate or Assistant *under this Act shall be appealable, subject to the general provi-* sions which regulate appeals

Interpretation

21. In the construction of this Act,[2] * * * * the word "Collector" shall mean any Collector, Deputy Collector or other revenue officer in *independent charge of any district or portion of a district*

See now the General Clauses Act, 1897 (10 of 1897), s 16

[1][THE SONTHAL PARGANAS ACT, 1855.]

ACT NO. XXXVII OF 1855.

[22nd December, 1855.]

An Act to remove from the operation of the general Laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.

Preamble.

WHEREAS the general Regulations and Acts of Government now in force in the *Presidency of Bengal* are not adapted to the uncivilized race of people called Sonthals, and it is therefore expedient to remove from the operation of such laws the district called the Dámin-i-Koh, and other districts which are inhabited principally by that tribe; It is enacted as follows:—

Districts removed from operation of General Regulations.

1. [2]*Clause 1.*—The districts described in the Schedule to this Act are hereby removed from the operation of the general Regulations of the Bengal Code and of the laws passed by the Governor General of India in Council, except so far as is hereinafter provided; and [3][no Central Act passed before the commencement of Part III of the Government of India Act, 1935,] shall be deemed to extend to any part of the said districts, unless the same shall be specially named therein: (26 Geo. 5, c. 2.)

Proviso.

Provided that nothing herein contained shall [4]* * * remove any part of the said districts from the operation of [5]Regulation 10 of 1804 of the Bengal Code; nor shall this Act affect any revenue-settlement, nor any law relating to the recovery of permanently-settled land-revenue due under the same, nor any law relating to the sale of lands for arrears of revenue, or relating to patni taluks or to the sale thereof for arrears of rent, nor any law relating to mutations or batwara or to any other matter to which the [6][Provincial Government] shall at any time notify in the [7][Official Gazette] that the general Laws and Regulations shall extend.

Superintendence of districts.

Clause 2.—The said districts shall be placed under the superintendence and jurisdiction of an officer or officers[8] to be appointed in that behalf by the [6][Provincial Government] and such officer or officers shall be subject to the directions[9] and control of the [10][Provincial Government].

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[1] Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.
This Act extends only to the Sonthal Parganas, as described in the Schedule.

[2] Clause 1 of s. 1 appears to have been superseded by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3.

[3] Subs. by the A. O. for "no law which shall hereafter be passed by the G. G. of India in C".

[4] The words "extend to or affect any case now pending in any Court, nor," rep. by the Amending Act, 1891 (12 of 1891).

[5] The Bengal State-Offences Regulation, 1804, was rep. by the Special Laws Repeal Act, 1922 (4 of 1922).

[6] Subs. by the A. O. for "Lieutenant-Governor of Bengal".

[7] Subs. by the A. O. for "Calcutta Gazette".

[8] For provisions as to Courts of Officers appointed under this section, *see* the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), Ch. III, Part II.

[9] Any directions issued under clause 2 of s. 1 must be consistent with enactments in force in the Sonthal Parganas, *see* the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 27.

[10] Subs. by the A. O. for "said Lieutenant-Governor".

(*Schedule*)

2 The administration of civil and criminal justice and the collection of the revenue not being permanently settled land revenue within the said districts are hereby vested in the officer or officers to be so appointed

Administration of justice and collection of revenue

[1]Provided that all civil suits in which the matter in dispute shall exceed the value of one thousand rupees shall be tried and determined according to the general laws and Regulations in the same manner as if this Act had not been passed

Suits exceeding value of one thousand rupees

Provided also that all permanently settled land revenue shall be collected and paid at the same places and in the same manner as if this Act had not been passed

Collection of permanently settled land revenue

3 In the administration of civil and criminal justice the officer or officers appointed under this Act[2] * * * * * may hold his or their Courts either within the said district or at any place or places that may be appointed for that purpose by the [3][Provincial Government] and any person liable to be imprisoned in any civil or criminal jail may be imprisoned in any civil or criminal jail as the case may be which the [3][Provincial Government] may order whether the same be in or out of the said district

Administration of civil and criminal justice

4. [*Decisions final confirmation of death sentence appeal procedure on references to Sadar Court*] *Rep by the Sonthal Parganas Justice Regulation 1893* (*V of 1893*)

5. [*Saving of laws relating to European British subjects*] *Rep by the Sonthal Parganas Justice Regulation 1893* (*V of 1893*)

6 [*Commencement of Act*] *Rep by the Repealing Act 1870* (*XIV of 1870*)

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[4]SCHEDULE

The Damin i Koh

So much of Pargana Bhagalpur and of Pargana Satiyari as lies east of the Gerua Nadi and south of a line drawn eastward from Hamza Chak to the village of Dighi

ZILA BHAGALPUR	Pargana Tiliyagarhi Jamuni Chituliya Kankjaul Bahadarpur Akbarnagar Inayatnagar Makrain	Except such parts of them as are now or may hereafter be situate on the left bank of the main stream of the Ganges so that in any change in the course of the river the main stream shall be the boundary

Justice Regulation 1893 (5 of 1893)

[3] Subs by the A O for said Lieutenant-Governor

[4] Subs for original schedule by the Sonthal Parganas Act, 18.. (10 of 18..)

concealed a deserter on board his vessel, or has, by neglect of duty or by reason of the want of proper discipline on board the vessel, allowed such deserter to be so concealed

2. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the Presidency towns of Calcutta, Madras and Bombay, [1]* * * Magistrate, [2]* * or person lawfully exercising the powers of a Magistrate in any port within [3][British India] within whose jurisdiction the offence may have been committed or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not, and any person hereby made punishable by a Justice of the Peace shall be punishable on summary conviction Jurisdiction.

3. No conviction, order or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state on the face of the conviction, order or judgment the evidence on which it proceeds, but the depositions taken, or a copy of them, shall be returned with the conviction, order or judgment, in obedience to any writ of *certiorari*, and, if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in such depositions Conviction to be quashed on merits only Form of conviction, etc

4. Nothing in this Act contained shall prevent any Justice of the Peace, Magistrate or other officer having authority in that behalf from committing for trial any person who shall be charged with an offence punishable under [4]* * * any other Act hereafter to be in force, notwithstanding that such offence may be also punishable under this Act Provided that no proceedings shall have been had against such person in respect of the same offence under this Act Saving of proceedings under other Acts Proviso

5. Whenever, on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the commanding officer of any fort, garrison, station, regiment or detachment, at any port or place within [3][British India] in which no person lawfully exercising Commanding Officer or Magistrate may issue warrants for apprehension of deserters

[1] The words "or for any of the Settlements of Prince of Wales' Island, Singapore and Malacca" rep by the Repealing Act, 1874 (16 of 1874)

[2] The words "Joint Magistrate" rep by the Repealing Act, 1873 (12 of 1873)

[3] Subs by the A O for "the territories of the East India Company"

[4] The words and figures "Act No 14 of 1849 or," rep by the Repealing Act, 1874 (16 of 1874)

magisterial powers can be found, which oath or affirmation the several persons above named shall severally under this Act have power to administer;

or whenever, on such information as aforesaid given to any Justice of the Peace, Magistrate [1]* * or person lawfully exercising the powers of a Magistrate, having jurisdiction within such port or place, there shall appear reason to suspect that any European officer, [2][soldier or airman] belonging to the said Forces, who may have deserted or be absent without leave, is on board any ship, vessel or boat, or is concealed on shore at any such port or place within the territories of the East India Company, it shall be lawful for such commanding officer or Justice of the Peace, Magistrate [1]* * or person lawfully exercising the powers of a Magistrate as aforesaid, to issue a warrant authorizing the person or persons to whom such warrant may be addressed to enter into and search, at any time of the day or night, any such ship, vessel or boat, or any house or place on shore, and to apprehend any such officer, [2][soldier or airman], and to detain him in custody in order to his being dealt with according to law.

Warrant to whom to be addressed and by whom to be executed.

6. The warrant to be issued under the preceding section may be addressed to any European officer, [2][soldier or airman] of the said Forces or to all constables, peace-officers, and other persons who may be bound to execute the warrant of any Justice of the Peace, Magistrate [1]* * or person lawfully exercising the powers of a Magistrate, and acting in the execution of this Act; and all such persons shall be bound to execute, perform and obey such warrant.[3]

Persons apprehended how to be dealt with, etc.

7. Every person who shall be apprehended under any warrant under the fifth section of this Act shall be brought without delay before a Justice of the Peace, Magistrate [1]* * or person lawfully exercising the powers of a Magistrate, in or near the place wherein such person shall have been arrested, who shall examine such person, and if he shall be satisfied, either by the confession of such person or the testimony of one or more witness or witnesses, or by his own knowledge, that such person is a deserter from the said Forces, shall cause him to be delivered, together with any depositions and papers relative to the case, to the commanding officer of the regiment, corps or detachment to which he shall belong, if the same shall be in or near the place of such arrest, or, if otherwise, then to the commanding officer of the nearest [4][military or air-force station, as the case may be], in order that he may be dealt with according to law.

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1 The words "Joint Magistrate" rep. by the Repealing Act, 1873 (12 of 1873).

2 Subs. for "or soldier" by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

3 Under Code of Criminal Procedure, 1898, s. 54, cl. 6, a police-officer may now, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of being a deserter from Her Majesty's Army. See Act 5 of 1898.

4 Subs. for "military station" by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

[1][THE CIVIL COURTS AMINS ACT, 1856]

ACT No XII OF 1856.

[*9th May, 1856*]

An Act to amend the Law respecting the employment of Amins by the Civil Courts in the Presidency of Fort William.

WHEREAS the law by which the Civil Courts are authorized to employ Amins upon local investigations is defective, and requires amendment, [2]* * * * It is enacted as follows — **Preamble.**

1. [*Repeal of Regulations*] *Rep by the Repealing Act, 1870 (XIV of 1870)*

2. In each district, officers to be designated Civil Court Amins shall be appointed for the purposes of this Act, and shall be remunerated by fixed monthly salaries **Appointment of Amins**

[3][The number of Amins to be employed in each district shall be determined by the Provincial Government]

3. The [4][District Judge shall from time to time attach the Civil Court Amins] to the several Courts of the district according as the state of business may require **Amins by whom appointed and to what Courts attached**

Provided that an Amin attached to any particular Court may, with the sanction of the Judge, be employed occasionally by any other Court

4. [*Declaration to be made by Civil Court Amins*] *Rep by the Indian Oaths Act, 1873 (X of 1873)*

5. [5]* * * * * The Civil Court Amins may be employed in any of the following duties — **Duties of Amins**

(i) in investigating or adjusting accounts in any suit or other judicial proceeding

(ii) in making local investigations when the Court may deem investigation on the spot to be requisite and proper for the purpose

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in
tricts
It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874)

[5] The words ' Subject to such general direction and restriction as may from time to time be prescribed by the Sudder Court " rep by the Repealing Act, 1873 (12 of 1873)

[1][THE HINDU WIDOWS' RE-MARRIAGE ACT, 1856.]

ACT No. XV OF 1856.

[25th July, 1856.]

An Act to remove all legal obstacles to the marriage of Hindu Widows.

WHEREAS it is known that, by the law as administered in the Civil Courts established in the territories in the possession and under the Government of the East India Company, Hindu widows with certain exceptions are held Preamble.

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[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been declared to be in force in—

the whole of British India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (14 of 1874), s. 3;

the Santhal Parganas, by the Santhál Parganas Settlement Regulation (3 of 1872), s 3;

the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and

the Angul Distr s. 3.

It has been decla Districts Act, 1874 (14 of 1874), to be in

Sind		Pt. I, p. 672.
West Jalpáiguri	Ditto	1881, Pt I, p. 74.
The Districts of Hazaribagh, Lohardaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt I, p. 44), and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singhbhum	Ditto	1881, Pt I, p. 504
Kumaon and Garhwal	Ditto	1876, Pt. I, p. 605.
The Scheduled portion of the Mirzapur District	Ditto	1879, Pt. I, p. 383
Jaunsar Bawar	Ditto	1879, Pt. I, p. 382.
The Districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khán and Dera Gházi Khan [*Portions of the Districts of Hazara, Bannu, Dera Ismail Khán and Dera Ghazi Khán and the Districts of Peshávar and Kohat now form the N.-W. F. P*, see *Gazette of India, 1901, Pt. I, p. 857, and* ibid, *1902, Pt. I, p. 575; but its application to that part of the Hazára*		
	Ditto	1886, Pt. I, p. 48.
	Ditto	1868, Pt I, p. 301.
	Ditto	1879, Pt I, p 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
Coorg	Ditto	1878, Pt. I, p. 747.
The District of Sylhet	Ditto	1879, Pt. I, p. 631.
The Districts of Kamrup, Naugong, Darrang, Sibsagar, Lakhimpur, Goalpára (excluding the Eastern Dvars) and Cachar (excluding the North Cachar Hills)	Ditto	1878, Pt. I, p. 533.
The Gáro Hills, the Khási and Jaintiá Hills, the Nága Hills, the North Cachar Hills in the Cachar District and the Eastern Dvárs in the Goalpara District	Ditto	1897, Pt. I, p. 299.
The Porahat Estate in the Singhbhum District	Ditto	1897, Pt. I, p. 1059.

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children whilst minors

4. Nothing in this Act contained shall be construed to render any widow who, at the time of the death of any person leaving any property, is a child less widow, capable of inheriting the whole or any share of such property, if before the passing of this Act, she would have been incapable of inheriting the same by reason of her being a childless widow — Nothing in this Act to render any childless widow capable of inheriting

5 Except as in the three preceding sections is provided, a widow shall not, by reason of her re marriage forfeit any property or any right to which she would otherwise be entitled, and every widow who has re married shall have the same rights of inheritance as she would have had, had such marriage been her first marriage — Saving of rights of widow marrying, except as provided in sections 2 to 4

6. Whatever words spoken ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married, are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu widow, and no marriage shall be declared invalid on the ground that such words, ceremonies or engagements are inapplicable to the case of a widow — Ceremonies constituting valid marriage to have same effect on widow's marriage

7. If the widow re marrying is a minor whose marriage has not been consummated, she shall not re marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grand father, of her mother, or, failing all these, of her elder brother, or failing also brothers, of her next male relative — Consent to re marriage of minor widow

All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine or to both — Punishment for abetting marriage made contrary to this section

And all marriages made contrary to the provisions of this section may be declared void by a Court of law Provided, that in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated — Effect of such marriage Proviso

In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re marriage lawful and valid — Consent to re marriage of major widow

[1][THE BENGAL CHAUKIDARI ACT, 1856.]

CONTENTS.

[1] Short title given by the Amending Act, 1903 (1 of 1903).

SECTIONS

[1]ACT NO. XX OF 1856.

[*14th November, 1856.*]

An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal.

Preamble.

WHEREAS it is expedient to make better provision for the appointment and maintenance of Police Chaukidars in cities, towns, stations, suburbs and bazars in the Presidency of Fort William in Bengal[2]; It is enacted as follows :—

Existing assessment to be levied until revised.

1. [3]* * * * * The monthly assessment levied under Regulation XXII, 1816, and Act XV of 1837 in any city or station at the time of the passing of this Act, shall continue to be levied until the same shall be revised and altered under the provisions of this Act.

To what places Act shall apply.

[4][**2.** The provisions of this Act shall have effect in all cities, stations, towns, suburbs and bazars in the said Presidency[2] to which the [5][Provincial Government] may, at any time, extend the same by notification in the Official Gazette :

Proviso.

Provided always that this Act shall not be extended to any agricultural village.[6]

In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section.]

Unions may be formed.

3. The [7][Provincial Government] may by notification to be published in the Official Gazette, unite, for the purposes of this Act, any city, town, suburb, station or bazar, or any part or parts of a city, town, suburb, station or bazar, with any other city, town, suburb, station or bazar, or part or parts of a city, town, suburb, station or bazar; and in such case all the provisions of this Act applicable to a city, town, suburb, station or bazar shall apply to such union.

Government may define limits of cities, towns, etc.

4. For the purposes of this Act the [5][Provincial Government] may define and declare the limits of any city, town, suburb, station, bazar or union, and

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[1] This Act was declared by the Laws Local Extent Act, 1874 (15 of 1874), ss. 6 and 7, to be in force in the former Province of Bengal and the former North-Western Provinces, except the Scheduled Districts. Subsequently it was rep. in Bengal and Assam by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), and in the U. P. by the U. P. Town Areas Act, 1914 (U. P. Act 2 of 1914). It is therefore now in force in the Punjab and Ajmer Merwara. As regards the Punjab, *see*, however, the Punjab District Boards Act, 1883 (20 of 1883), s. 69, under the Provincial Government has power to direct that the Bengal Chaukidari Act, 1856, shall cease to be in force in any local area over which a District Board has authority.

[2] In the application of this Act to Oudh, the words " and the territories under the administration of the Chief Commissioner of Oudh " were deemed to have been inserted after the word " Bengal " in the preamble, and the words " or territories " after the word " Presidency " in s. 2—*see* the Oudh Laws Act, 1876 (18 of 1876), s. 3 (*e*) and Sch. II. But since Act 20 of 1856 is no longer in force in the U. P., these words have been omitted from the text.

[3] The first portion of this section, repealing Ben. Reg. 22 of 1816, s. 6 of Ben. Reg. 7 of 1817, Ben. Reg. 3 of 1821, s. 4 of Ben. Reg. 2 of 1832 and Act 15 of 1837, was rep. by the Repealing Act, 1870 (14 of 1870).

[4] Subs. by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871) for the original section.

[5] Subs. by the A. O. for " L. G."

[6] The Act has been extended under this section to the town of Kalka. For notification extending the Act to a town in Ajmer-Merwara—*see* Ajmer Local Rules and Orders.

[7] Subs. by the A. O. for " Govt.".

all occupiers of houses within any such city, town, suburb station, bazar or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act for the purpose of maintaining the chaukidars appointed to be maintained in such city, town, station, suburb, bazar or union

5. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house *Houses let to lodgers, how to be assessed*

6. The Magistrate may cause a name to be given to any street and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mohulla for the purpose of identifying such house, and if any person shall wilfully remove, obliterate or destroy such name or number, he shall be liable, on conviction by a Magistrate to a fine not exceeding twenty rupees *Penalty for removing, etc., name of street or number of house*

7. The Magistrate shall determine the number of chaukidars to be maintained in any city, town or other such place as aforesaid, but the number of chaukidars so to be maintained shall not exceed one to every twenty five houses *Magistrate to determine number of chaukidars Proviso*

8. The chaukidars appointed under this Act may be of different grades and the wages to be paid to the several grades shall be determined by the Magistrate *Grades and wages of chaukidars*

9. The Magistrate shall determine the total amount required to be raised in any year in any city town or other such place as aforesaid, for the purpose of maintaining the chaukidars appointed to be maintained therein, and for the purposes specified in sections 33, 34, 35 and 36 of this Act together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year *Magistrate to determine the sum to be raised annually*

10. The tax to be levied in any city, town or other place as aforesaid for the purposes of this Act, may be either an assessment according to the circumstances, and the property to be protected, of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof *Nature of tax to be levied.*

The [1][Provincial Government], on the report of the Magistrate and Commissioner [2]* * *, shall determine in each case whether the tax to be levied shall be such assessment or such rate

[3][**11.** If the tax be an assessment according to the circumstances, and the property to be protected, of the persons liable to the same, the amount assessed in respect of any one house shall not be more than the pay of a chaukidar of the lowest grade *Limitation of tax.*

If the tax be a rate on houses and grounds, it shall not exceed five *per centum* of the annual value thereof]

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[1] [illegible]
[2] [illegible]
[3] [illegible]
section

Rate, how to be ascertained.

12. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year. Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable.

Magistrate may exempt occupiers unable to pay the assessment or rate.

13. The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same.

Constitution of panchayats.

14. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a panchayat for each such city, town or other place as aforesaid, or, when he may see fit to divide any such city, town or place into convenient divisions, for each division thereof, and shall issue a sanad of appointment, specifying the names, residence, business or other description of the persons appointed and the period for which the appointment is made.

Every panchayat shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town or other place, or in or near to any such division thereof:

Magistrate may appoint a person not residing in the place to be a member of panchayat.

Provided that, instead of any one such person, the Magistrate may appoint any person whom he may think fit, to be a member of the panchayat, notwithstanding such person may not reside or carry on business in or near to such city, town or other place, or in or near to any such division thereof.

Duties of panchayat.

15. The panchayat so appointed, or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation of property within the district (whether city, town or other place as aforesaid, or any division thereof) for which the panchayat shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business or other description of such occupier, the property occupied, and the amount payable monthly by such occupier.

If the tax be a rate on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified.

Form of Magistrate's requisition.

The requisition of the Magistrate to the panchayat to make out such list shall be in the form marked A or B, as the case may be, set forth in the Appendix to this Act annexed, or to the like effect.

Panchayat may revise existing assessment or rate.

16. The panchayat shall, if required by the Magistrates so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force.

Magistrate may amend and settle

17. When an assessment or rate shall have been made or revised, as the case may be, the panchayat shall forward to the Magistrate the list

containing the same, and the Magistrate shall revise, and, if necessary, amend and settle it

Assessment or rate as revised by the panchayat

18. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a notification prepared according to the form marked C in the Appendix to this Act, or to the like effect and written in the language of the province in which the city, town or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made, and another copy together with a like notification, at the nearest police thana, and shall also cause a third copy to be deposited in his own office

Assessment or rate to be published

19. Unless revised or corrected as hereinafter provided every assessment or rate under this Act shall stand good for one whole year and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof, and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier

Assessment or rate to stand good for one year

Change of occupation before a new assessment or rate

Every assessment or rate which shall be revised according to the provisions of section 16 shall be deemed a new assessment or rate Provided always that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be re published according to the provisions of section 18, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding section

Revised assessment or rate to be deemed a new one

Proviso

20. Any person assessed or rated who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation or otherwise, may confirm the assessment or rate or amend the same

Appeal from assessment or rate

In case the Magistrate confirm the assessment or rate he may award costs against the appellant

The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court

Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate prescribed by section 18, or of the notification of the substitution of the name of an occupier under section 19, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal

Limitation of appeal

trate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members, but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sanad under section 14 of this Act

Panchayat to report misconduct of chaukidars or death or absence

30. The panchayat shall give notice to the Magistrate of any neglect or misconduct on the part of any chaukidar within the district for which they are appointed, which shall come to their knowledge, and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any chaukidar or from any other cause

Appointment and duty of sadr panchayat.

31. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a sadr panchayat consisting of not less than five members, who may be selected either from the members of the local panchayats or from any other residents of the city or town

It shall be the duty of the sadr panchayat to assist the Magistrate, when required so to do, in carrying out generally the object of this Act, and particularly in revising the assessment or rate made by the district panchayats and enquiring into and reporting on appeals preferred against the same

Appointment and registry of chaukidars

32. The chaukidars to be employed under this Act shall be appointed by the [1][Provincial Government], and the Magistrate shall cause to be kept a register in which shall be entered the name, age, place of residence and previous occupation of every person so appointed, with the date of his appointment

Appointment of jemadars and inspectors

33. [2][The Provincial Government] may appoint such number of jemadars and inspectors as may be necessary for the supervision and control of the chaukidars

Provided that the number of these officers shall not be greater than one jemadar to fifteen chaukidars, and one inspector to sixty chaukidars

Appointment of tax collectors and other establishment

34. [2][The Provincial Government] may appoint one or more tax collectors or darogas, and such other servants as may be necessary for preparing or assisting the panchayat in preparing the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records, and otherwise carrying out the purposes of this Act

The Magistrate shall take from every tax collector or daroga such security for the due disposal of the sums collected by him as may be thought necessary

Contingent expenses

35. The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses and weapons for the chaukidars, and for any other contingencies that may seem to him necessary

Surplus funds may be devoted to conservancy purposes.

36. After paying the wages of the chaukidars, and defraying the charges specified in the three last preceding sections of this Act, the Magistrate may with the sanction of the Commissioner[3] * * * appropriate any sum

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[1] Subs by the A O for 'Magistrate —*see* s 4 A (2) of the General Clauses Act, 1897 (10 of 1897)

[2] [illegible] ...e Commissioner, the Magistrate' — The words of Circuit originally [illegible] ...Amending Act, 1891 (12 of 1891)

[3] The words "of Circuit rep by the Amending Act, 1891 (12 of 1891)

which may be available, to the purpose of cleansing the city, town or place, or of lighting or otherwise improving the same.

Preparation of assessment-lists.

37. The tax-darogas shall prepare, from the lists hereinbefore mentioned, a register which shall be attested by the Magistrate or his Deputy or Assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed, and the amount payable monthly by each person.

Collection of assessments.

[1][**38.** On such dates as may be fixed by the pancháyats for payment of instalments of the tax, the tax-daroga shall proceed in person or through some one of his office establishment, to collect the amount due for the current month from each person subject to the tax; and for all sums so collected the daroga shall grant a receipt:

Provided that, with the sanction of the [2][Commissioner] previously obtained, the collection may be made quarterly instead of monthly; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.]

Remittance of collections.

39. The tax-daroga shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorised on that behalf, shall give the daroga a receipt for every sum of money so remitted.

The Magistrate shall also cause all such sums of money to be credited to a separate fund, to be called the chaukidari fund of the city, town or place in or on account of which they are collected.

Preparation of summons, etc.

40. The tax-daroga shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realisation of arrears.

Report on defaulters to Magistrate.

41. [[3]On the tenth day after the date fixed for the payment of instalments of the tax,] or as soon after as possible, the tax-daroga shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

Summons of defaulters.

42. On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the Kachahri of the Magistrate, within a reasonable time, to be specified in the summons, to show cause for his refusal.

Assessment to be levied from defaulters by distress and sale.

43. If any defaulter fail to appear in answer to the summons, or, having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the tax-daroga, authorising him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises

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[1] Subs. by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 3, for the original section.
[2] Subs. by the Amending Act, 1891 (12 of 1891), for "Commissioners of Circuit".
[3] Subs. by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 4, for "on the twentieth of each calendar month".

in respect of which the arrear is due, and the Magistrate's orders as contained in the warrant shall be final

44. The tax daroga shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of drum, in the district in which the property is situated *(Sale how to be conducted)*

If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible, and the proceeds shall be applied in discharge of the arrears and costs, and the surplus if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure *(Proceeds how to be applied)*

The tax daroga shall make a return of all such sales to the Magistrate in the form specified in Appendix D and the costs upon every such proceeding shall be such as are mentioned and set forth in Appendix E annexed to this Act *(Returns of sale. Costs)*

45. Any tax daroga or other servant appointed under this Act and any chaukidar or officer of police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty rupees, and the property shall be confiscated *(Penalty for tax daroga purchasing at such sales)*

46. If no sufficient goods or chattels belonging to a defaulter or being upon the premises in respect of which he is assessed or rated can be found *within the district in which the premises are situate* the Magistrate may issue his warrant to the nazir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever, and such other Magistrate shall back the warrant so issued and cause it to be executed and the amount if levied to be remitted to the Magistrate issuing the warrant *(Sale of property beyond limits of town etc)*

47. All goods and chattels, except tools or implements of trade which may be found upon any premises in respect of which an arrear is due shall be liable to be distrained for the recovery of such arrear *(All goods found on premises liable to sale)*

If the goods and chattels belong to any person other than the defaulter the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same *(But owner of goods to be indemnified by the defaulter)*

Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar months from the time when such arrears became due

48 Every person who shall wilfully obstruct or molest any tax daroga or any of his establishment, in the performance of their duties under this Act, or shall fraudulently conceal, remove or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act or shall knowingly assist any other person in so doing, shall be liable on conviction before a Magistrate, to a penalty not exceeding fifty rupees *(Penalty for obstructing tax daroga in execution of duty)*

Magistrates to try complaints against tax-daroga for extortion, etc.

49. The Magistrate shall receive and try all complaints preferred on oath or solemn affirmation against any tax-daroga or other person appointed under this Act for extortion, malversation or other misconduct in the discharge of his duty.

Penalty for extortion, etc.

On proof of any such offence, the tax-daroga or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labour, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or, in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labour, for not more than six months.

Proviso.

But nothing in this section shall be taken to prevent the Magistrate from committing any tax-daroga or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Powers, duties and liabilities of chaukidars, jemadars and inspectors.

50. The chaukidars and the jemadars and inspectors appointed under this Act, shall exercise all the powers, and perform all the duties, and be subject to all the liabilities of police-officers as prescribed [1][by any law] for the time being in force, so far as such powers, duties and liabilities are not inconsistent with, or otherwise expressly provided for, by this Act.

The chaukidars and the jemadars and inspectors are in all respects subordinate to the Police-daroga of the thana within the limits of which they may be employed.

Chaukidars to wear badges.

51. Every chaukidar appointed under this Act shall wear a badge with a number, and the name of the city, town, place or division for which he is appointed, engraved thereon.

Duties of chaukidars—to apprehend offenders,

52. Every chaukidar and every jemadar and inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest police-station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised.

to prevent nuisances,

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets.

to give intelligence of resort of thieves, etc.,

Third.—He shall give immediate intelligence to the police-daroga of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace.

to examine and detain suspected persons.

Fourth.—He may stop, examine and, if necessary, detain, any person who shall be reasonably suspected at any time of having or conveying anything stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest police-station.

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[1] Subs. by the A. O. for " in the General Regulations of the Bengal Code or Acts of the G. of I."

53. If a chaukidar or other police officer be unable to effect an arrest, he may require all persons present to assist him, and any person who refuses or neglects to comply with such requisition shall be liable on conviction by a Magistrate, to a fine not exceeding fifty rupees or to imprisonment not exceeding two months

All persons required to assist chaukidars in making arrests

54. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the chaukidars and jemadars and inspectors (if any) shall be mustered at the thana to which they are attached, and the police daroga or mohurrir of the thana shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each chaukidar in an official register of receipts prepared for the purpose, and the daroga, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate

Chaukidars, etc how to be paid

55. Any chaukidar and any jemadar or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months

Punishment of chaukidars for neglect of duty etc

56. The Magistrate may suspend or dismiss any officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same

Suspension or dismissal of police officers

57. All fines levied under this Act shall be credited to the chaukidari fund and held available for the purposes of this Act

Fines how to be disposed of

58. [*Jurisdiction of Magistrate*] *Rep by the Code of Criminal Procedure* (X *of 1872*)

59. All the proceedings of a Magistrate under this Act except as otherwise specially provided, shall be subject to the control of the Commissioner [1]* * * , and all the proceedings of the Commissioner [1]* * * shall be subject to the control of the [2][Provincial Government]

Control over proceedings of Magistrate and Commissioner

60. [*Act not to apply to Calcutta*] *Rep by the Amending Act, 1891* (*XII of 1891*)

61. Wherever in this Act, or in any Appendix thereto there is nothing in the context requiring a different interpretation,—

Interpretation of Act

the word "Magistrate" shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate,

the word "house" shall include any shop or warehouse,

the word "bazar" shall mean any place of trade where there is a collection of shops or warehouses,

the word "district" shall mean a city, town, bazar or union, or any division thereof,

the expression "police daroga" shall include any tahsildar or naib tahsildar entrusted with police jurisdiction

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[1] The words "of Circuit" rep by the Amending Act, 1891 (12 of 1891)
[2] Subs by the A. O for "L G"

[1]APPENDIX A.

To

[*Here insert the names, places of abode, business or other description of the panchayat.*]

I do hereby require you, the panchayat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equitable assessment upon the several occupiers of houses, shops and buildings, in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukidars for the year commencing on and other expenses authorised by Act XX of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances, and the property to be protected, of each person. But the amount assessed in respect of any one house shall not exceed rupees (*here insert the pay of a chaukidar of the lowest grade*) [2]* * * .

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same ; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade or business or other descriptions of the person assessed, the annual assessment and the quota payable monthly ; and may be in the following form, or to the like effect :—

Property occupied.	Name of occupier.	Profession or business or other description.	Amount of monthly payment.

[1] *See* s. 15, *supra*.
[2] The remainder of this paragraph was rep. by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 5.

[1]APPENDIX B

To

[*Here insert the names, places of abode, business or other description of the panchayat*]

I do hereby require you, the panchayat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of a fair and equal rate upon the several occupiers of houses, shops and buildings and of grounds occupied for the purpose of trade or business, in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukidars for the year commencing on and other expenses authorised by Act XX of 1856 You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property The rate shall be an equal percentage, not exceeding five per cent of such annual value

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle is not to be rated in respect thereof

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same, but the property occupied, together with the name and description of such occupier, shall be specified in the list together with the ground of exemption

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house, and shall be rated accordingly

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade or business or other description of the person rated, the annual rateable value of the property, the annual rate, and the quota payable monthly, and may be in the following form, or to the like effect —

Property occupied	Name of occupier	Profession or business or other description	Annual value of property	Annual rate	Amount of monthly payment

[1] See s 15, *supra*

[1] APPENDIX C.

An assessment (*or rate, as the case may be*) made for (*here describe the city, town, village or other place or division for which the rate is made*) upon the several occupiers of houses and other property in the said district, pursuant to Act XX of 1856, for the purpose of maintaining chaukidars for such district.

Property occupied.	Names of occupiers.	Profession or business.	Amount of monthly (*or quarterly*) assessment (*or rate*).

Whereas the above assessment (*or rate, as the case may be*) has been duly made pursuant to Act XX of 1856, and has been revised and settled by me, the undersigned Magistrate of the several persons whose names are included in the said assessment (*or rate*) are hereby required to pay the monthly (*or quarterly*) contributions set opposite to their names with regularity to the tax-daroga or other person appointed by the Magistrate to receive the same [2]* * * * (*if the tax is to be collected quarterly, the months in which the payment is to be made must be specified*), or, in default thereof any arrear that may be due will be realised by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (*or rated*) and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of

Magistrate of

---

[1] *See* s. 18, *supra*.

[2] Certain words rep. by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 5.

[1]APPENDIX D.

1	2	3	4	5	6	7	8	9	10	11
District.	Names of defaulters.	Amount of defalcation.	Amount, cost or penalty.	Inventory of property seized under distress	Date of distress.	Date of sale.	Property sold.	Amount realised on each article.	Purchaser's name.	Balance.

[1] *See* s. 44, *supra.*

[1]APPENDIX E.

Table of Fees payable in distraints under this Act.

Sum distrained for	Fee. Rs. A.
Under 1 rupee	0 4
1 and under 3 rupees	0 8
3 „ 5 „	1 0
5 „ 10 „	1 8
10 „ 15 „	2 0
15 „ 20 „	2 8
20 „ 25 „	3 0
25 „ 30 „	3 8
30 „ 35 „	4 0
35 „ 40 „	4 8
40 „ 45 „	5 0
45 „ 50 „	5 8
50 „ 60 „	6 0
60 „ 80 „	7 8
80 „ 100 „	9 0
Above 100	10 0

[1] *See* s. 44, *supra.*

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

[1][THE CALCUTTA UNIVERSITY ACT, 1857.]

Act No. II of 1857.

[24th January, 1857.]

An Act to establish and incorporate an University at Calcutta.

ıble. WHEREAS, for the better encouragement of Her Majesty's subjects of all classes and denominations within the Presidency of Fort William in Bengal and other parts of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Calcutta for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and of rewarding them by Academical Degrees[2] as evidence of their respective attainments, and marks of honour proportioned thereunto; and whereas, for effectuating the purposes aforesaid, it is expedient that such University should be incorporated; It is enacted as follows[3] * * * *:—

1. The following persons, namely,—

ɔora- The Right Honourable CHARLES JOHN VISCOUNT CANNING,
Governor General of India,

The Honourable JOHN RUSSELL COLVIN,
Lieutenant-Governor of the North-Western Provinces,

The Honourable FREDERICK JAMES HALLIDAY,
Lieutenant-Governor of Bengal,

The Honourable Sir JAMES WILLIAM COLVILE, Knight,
Chief Justice of the Supreme Court of Judicature in Bengal,

The Right Reverend DANIEL WILSON,
Doctor of Divinity, Bishop of Calcutta,

The Honourable GEORGE ANSON, General,
Commander-in-Chief of the Forces in India,

The Honourable JOSEPH ALEXANDER DORIN,
Member of the Supreme Council of India,

The Honourable JOHN LOW, Major-General,
Companion of the Most Honourable Order of the Bath, Member of the Supreme Council of India,

The Honourable JOHN PETER GRANT,
Member of the Supreme Council of India,

The Honourable BARNES PEACOCK,
Member of the Supreme Council of India,

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1 Short title given by the Indian Short Titles Act, 1897 (14 of 1897).
2 For powers conferring Degrees, *see* the Indian Universities Act, 1904 (8 of 1904).
3 The words and brackets "(that is to say)" rep. by the Repealing Act, 1876 (12 of 1876).

CHARLES ALLEN, Esquire,
Member of the Legislative Council of India,

HENRY RICKETTS, Esquire,
Provisional Member of the Supreme Council of India,

CHARLES BINNY TREVOR, Esquire,
Judge of the Sudder Court in Bengal,

Prince GHULAM MUHAMMAD,

WILLIAM RITCHIE, Esquire,
Advocate General in Bengal,

CECIL BEADON, Esquire,
Secretary to the Government of India,

Colonel HENRY GOODWYN, of the Bengal Engineers,
Chief Engineer in Bengal,

WILLIAM GORDON YOUNG, Esquire,
Director of Public Instruction in Bengal,

Lieutenant Colonel WILLIAM ERSKINE BAKER, of the Bengal Engineers,
Secretary to the Government of India,

Lieutenant-Colonel ANDREW SCOTT WAUGH, of the Bengal Engineers,
Surveyor General of India,

KENNETH MACKINNON, Esquire,
Doctor in Medicine,

HODGSON PRATT, Esquire,
Inspector of Schools in Bengal,

HENRY WALKER Esquire,
Professor of Anatomy and Physiology in the Medical College of Bengal,

THOMAS THOMSON, Esquire,
Doctor in Medicine, Superintendent of the Botanical Garden at Calcutta,

FREDERICK JOHN MOUAT Esquire,
Doctor in Medicine, and Fellow of the Royal College of Surgeons,

Lieutenant WILLIAM NASSAU LEES, of the Bengal Infantry,

The Reverend WILLIAM KAY,
Doctor of Divinity, Principal of Bishop's College,

The Reverend ALEXANDER DUFF,
Doctor of Divinity,

THOMAS OLDHAM, Esquire,
Superintendent of the Geological Survey of India,

HENRY WOODROW, Esquire,
Inspector of Schools in Bengal,

LEONIDAS CLINT, Esquire,
Principal of the Presidency College,

PROSONNO COOMAR TAGORE,
Clerk Assistant of the Legislative Council of India,

RAMAPERSHAD ROY, Government Pleader in the Sudder Court of Bengal,

The Reverend JAMES OGILVIE, Master of Arts,

The Reverend JOSEPH MULLENS, Bachelor of Arts,

MOLAVY MUHAMMAD WUJEEH, Principal of the Calcutta Mudrasah,

ISHWAR CHUNDER BIDYA SAGAR,
Principal of the Sanskrit College of Calcutta,

RAMGOPAL GHOSE,
Formerly Member of the Council of Education,

ALEXANDER GRANT, Esquire,
Apothecary to the East India Company.

HENRY STEWART REID, Esquire,
Director of Public Instruction in the North-Western Provinces,

being the first Chancellor, Vice-Chancellor and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Calcutta;

and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto, in every Court of Justice within [1][British India].

Power to hold and dispose of property.

2. The [2]* Body Corporate shall be able and capable in law to take, purchase and hold any property, moveable or immoveable, which may become vested in it for the purposes of the [2]* University by virtue of any purchase, grant, testamentary disposition or otherwise; and shall be able and capable in law to grant, demise, alien or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the [2]* University; and also to do all other matters incidental or appertaining to a Body Corporate.

Office of Chancellor, etc., vacated by leaving India.

3. [2]* * * * * If any person, being Chancellor, Vice-Chancellor or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

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[1] Subs. by the A. O. for " the territories under the G. of I.".

[2] The word " said " wherever it occurred in s. 2 and the words " The said Body Corporate shall consist of one Chancellor, one Vice-Chancellor, and such number of *ex-officio* and other Fellows as the Governor General of India in Council hath already appointed, or shall from time to time, by any order published in the Calcutta Gazette, hereafter appoint; and the Chancellor, Vice-Chancellor and Fellows for the time being shall constitute the Senate of the said University: Provided that " in s. 3 were rep. by s. 29 of the Indian Universities Act, 1904 (8 of 1904).

4. [1][Such person as the Governor General, exercising his individual judgment, may appoint, shall be the Chancellor of the said University] Chancellor.

5. [2]* * * * The office of Vice Chancellor shall be held for two years only, [3]* * * * * * * * Vice Chancellor

Whenever a vacancy shall occur in the office of Vice Chancellor of the said University by death, resignation, departure from India, efflux of time or otherwise, the [4][Central Government] shall, by notification [5]* * * *, nominate a fit and proper person, being one of the Fellows of the said University, to be Vice Chancellor in the room of the person occasioning such vacancy

Provided that, on any vacancy in the said office which shall occur by efflux of time, the [4][Central Government] shall have power to re appoint [6]* * * * * * * * * any future Vice Chancellor to such office

6. [*Fellows*] *Rep by the Indian Universities Act, 1904 (VIII of 1904), s 29*

7. The [4][Central Government] may cancel the appointment of any person already appointed, or hereafter to be appointed, a Fellow of the University, and, as soon as such order is notified in the Gazette, the person so appointed shall cease to be a Fellow The appointment of a Fellow may be cancelled

8. The Chancellor, Vice Chancellor and Fellows for the time being shall have the entire management of and superintendence over the affairs, concerns and property of the said University, and in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice Chancellor and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University Chancellor, Vice-Chancellor and Fellows to superintend the affairs of the University

[7]* * * * * * * * * * *

9. [*Meetings of the Senate*] *Rep by s 29, Indian Universities Act, 1904 (8 of 1904)*

10. [*Appointment and removal of Examiners and Officers*] *Rep by s 29, Indian Universities Act, 1904 (8 of 1904)*

11. [*Power to confer degrees*] *Rep by s 29, Indian Universities Act, 1904 (8 of 1904)*

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[3] The words 'The first Vice Chancellor of the said University shall be Sir James William

1904 (8 of 1904)

[6] The words 'The Vice-Chancellor hereinbefore nominated or" rep by the Repealing Act, 1876 (12 of 1876)

[7] The last two paragraphs and the proviso to s 8 relating to bye laws rep by s 29 of the Indian Universities Act, 1904 (8 of 1904)

PROSONNO COOMAR TAGORE,
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being the first Chancellor, Vice-Chancellor and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor or Fellows *as hereinafter mentioned, so long as they* shall continue to be such Chancellor, Vice-Chancellor or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Calcutta ;

and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto, in every Court of Justice within [1][British India].

Power to hold and dispose of property.

2. The [2]* Body Corporate shall be able and capable in law to take, purchase and hold any property, moveable or immoveable, which may become vested in it for the purposes of the [2]* University by virtue of any purchase, grant, testamentary disposition or otherwise ; and shall be able and capable in law to grant, demise, alien or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the [2]* University ; and also to do all other matters incidental or appertaining to a Body Corporate.

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Provided that, on any vacancy in the said office which shall occur by effluxion of time, the [4][Central Government] shall have power to re appoint [6]* * * * * * * * * any future Vice Chancellor to such office

6. [*Fellows*] *Rep by the Indian Universities Act 1904 (VIII of 1904), s 29*

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to s. 8 relating to bye laws rep by s 29 of the

12. [*Qualification for admission of candidates for degrees.*] *Rep. by s. 29, Indian Universities Act, 1904 (8 of 1904).*

13. [*Examination for degrees.*] *Rep. by s. 29, Indian Universities Act, 1904 (8 of 1904).*

14. [*Grant of degrees.*] *Rep. by s. 29, Indian Universities Act, 1904 (8 of 1904).*

Fees.

15. The said Chancellor, Vice-Chancellor and Fellows shall have power to charge such reasonable fees for the degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the [1][Central Government] shall from time to time see fit to impose.

Annual accounts.

Such fees shall be carried to one General Fee Fund for the payment of expenses of the said University, under the directions and regulations of the [1][Central Government] to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said [1][Central Government] may direct.

[2][THE TOBACCO DUTY (TOWN OF BOMBAY) ACT, 1857.]

CONTENTS.

---

[1] Subs. by the A. O. for "L. G. of Bengal".
[2] Short title given by the Bombay Short Titles Act, 1921 (Bom. Act 2 of 1921).

SECTIONS

ACT No IV OF 1857

[*9th February, 1857*]

An Act to amend the law relating to the duties payable on tobacco and the retail sale and warehousing thereof in the town of Bombay

WHEREAS it is expedient to amend the law relating to the duties payable on tobacco and the retail sale and warehousing of that article in the town of Bombay, It is hereby enacted as follows — Preamble

1. [*Repeal of enactments*] *Rep by the Repealing Act 1870 (XIV of 1870)*

2. All tobacco (except such small quantities as are hereinafter mentioned) imported from any place into the town of Bombay and intended for consumption therein shall be liable to a duty of [1][thirty rupees] per maund of forty seers of eighty tolas to the seer, which duty is hereinafter called the municipal duty [2]* * * * * Municipal duty on tobacco for consumption in Bombay

3. The said municipal duty may be paid, at the option of the importer, either on the importation of the tobacco or after it has been warehoused as hereinafter provided Municipal duty when payable

---

[1] Subs by the Tobacco Duty (Town of Bombay) Amendment Act, 1932 (Bom Act I of 1932) s 3, for seven rupees and eight annas

[2] The words and such duty shall be leviable in addition to any customs duty prescribed by law rep by the Amending Act, 1891 (12 of 1891)

12. [*Qualification for admission of candidates for degrees.*] *Rep. by s. 29, Indian Universities Act, 1904 (8 of 1904).*

13. [*Examination for degrees.*] *Rep. by s. 29, Indian Universities Act, 1904 (8 of 1904).*

14. [*Grant of degrees.*] *Rep. by s. 29, Indian Universities Act, 1904 (8 of 1904).*

ees. **15.** The said Chancellor, Vice-Chancellor and Fellows shall have power to charge such reasonable fees for the degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the [1][Central Government] shall from time to time see fit to impose.

nnual counts. Such fees shall be carried to one General Fee Fund for the payment of expenses of the said University, under the directions and regulations of the [1][Central Government] to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said [1][Central Government] may direct.

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[2][THE TOBACCO DUTY (TOWN OF BOMBAY) ACT, 1857.]

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WHEREAS it is expedient to amend the law relating to the duties payable on tobacco and the retail sale and warehousing of that article in the town of Bombay, It is hereby enacted as follows — Preamble

1. *[Repeal of enactments] Rep by the Repealing Act, 1870 (XIV of 1870)*

2. All tobacco (except such small quantities as are hereinafter mentioned) imported from any place into the town of Bombay and intended for consumption therein shall be liable to a duty of [1][thirty rupees] per maund of forty seers of eighty tolas to the seer, which duty is hereinafter called the municipal duty [2]* * * * * Municipal duty on tobacco for consumption in Bombay.

3. The said municipal duty may be paid, at the option of the importer, either on the importation of the tobacco or after it has been warehoused as hereinafter provided Municipal duty when payable

---

[1] Subs by the Tobacco Duty (Town of Bombay) Amendment Act, 1932 (Bo 1932) s 3, for "seven rupees and eight annas"

[2] The words "and such duty shall be leviable in addition to any customs duty by law" rep by the Amending Act, 1891 (12 of 1891)

Power of the Commissioner of Excise to appoint public warehouses and to license warehouses.

[1][**3A.** The Commissioner of Excise may appoint public warehouses and, on payment of such fees and subject to such terms and conditions as may be prescribed by him by general or special order, may license warehouses, wherein tobacco may be warehoused without payment of the municipal duty on the importation thereof and may cancel any such appointment or licence.]

Duty not paid on importation to be paid on removal from warehouse for consumption.

4. If the said municipal duty is not paid on importation, the tobacco shall be warehoused in a public or licensed warehouse [2]* * * * * *; and the importer shall pay such duty on the said tobacco on its removal from the warehouse for consumption in the said town.

Remission of duty on re-exportation.

When tobacco so warehoused is re-exported to any place beyond the limits of the said town, the whole of the said municipal duty shall be remitted.

Drawback allowable on re-export.

[3][**4A.** When tobacco removed from a public or licensed warehouse for consumption in the said town on payment of the municipal duty under section 4, is re-exported to any place beyond the limits of the said town, seven-eighths of such duty paid shall be re-paid as drawback in the manner and subject to such conditions as may be prescribed by rules made by the Commissioner of Excise in this behalf.]

Bombay, a warehousing port for tobacco.

5. The port of Bombay shall [4]* * * * be held to be a warehousing port [5]* * * * * so far as regards the warehousing of tobacco [6]* * * * * * *.

Powers for collecting and enforcing payment of duty.

6. The Commissioner of Customs, Salt and Opium, and officers of customs shall have all the same powers and authorities for collecting and enforcing payment of the said municipal duty, in addition to the powers and authorities specified in this Act, as they now have or shall have in respect of duties of customs.

Tobacco not to be imported otherwise than by sea. Landing-places to be prescribed.

7. It shall not be lawful, without the permission of the Commissioner of Customs, Salt and Opium, or other officer empowered by Government to grant such permission, to bring any tobacco or any preparation thereof into Bombay otherwise than by sea, nor to land the same at any other landing-places than such as may from time to time be prescribed by the Government [7]* *.

Exemption from duty.

8. The foregoing provisions of this Act shall not be applicable to such small quantities of tobacco (not exceeding in weight [8][half a seer] of eighty

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[1] Ins. by the Tobacco Duty (Town of Bombay) Amendment Act, 1933 (Bom. Act 14 of 1933), s. 2.

[2] The words and figures " within the meaning of Act XXV of 1836 " rep. by the Repealing Act, 1874 (16 of 1874).

[3] Ins. by the Tobacco Duty (Town of Bombay) Amendment Act, 1933 (Bom. Act 14 of 1933), s. 3.

[4] The words " after the passing of this Act," rep. by the Repealing Act, 1876 (12 of 1876).

[5] The words and figures " within the meaning of Act XXV of 1836 " rep. by the Repealing Act, 1870 (14 of 1870).

[6] The words " and the provisions of the said Act, so far as the same are applicable, shall be applied to the warehousing of tobacco in the said town. The import-duty in the said Act mentioned shall, as to tobacco, include the municipal duty leviable under this Act " rep. by Acts 12 of 1876 and 12 of 1891.

[7] The words " of Bombay " rep. by the A. O.

[8] Subs. by the Tobacco Duty (Town of Bombay) Amendment Act, 1932 (Bom. Act 1 of 1932), s. 4, for "four seers".

[illegible]

9. It shall not be lawful to remove any tobacco from one place to another within the said town, nor to carry or convey the same or any thereof within the said town, nor to carry the same in any vessel or boat of less than [illegible] tons burthen in any of the creeks or waters adjacent to the said town without a permit from the Commissioner of Customs, Salt and Opium, which permit shall be in the form of Schedule A to this Act annexed, or to the like effect.

Any such permit shall be in force only between sunrise and sunset of the day for which it is granted.

Provided always, that it shall be lawful to convey without a permit any tobacco so far as may be necessary for the lawful importation thereof according to the provisions of this Act, and also small quantities of tobacco not exceeding in weight [1][half a seer] of eighty tolas to the seer, for personal or domestic use.

10. No permit shall be granted for the removal from warehouse of any quantity of tobacco less than an entire bale or package:

Provided that, when tobacco is to be removed for consumption in the said town, the Commissioner of Customs, Salt and Opium may give permission to open any bale or package previous to removal, and to set aside such portion thereof as may be refuse or waste, and the said refuse or waste may be re-exported, under the rules for the re-export of tobacco, at any time within one month from the date of such permission, or, if it be not so re-exported, may be destroyed by order of the Commissioner.

11. It shall not be lawful for any person to sell or offer for sale by retail any tobacco in the said town without a license from the Commissioner of Customs, Salt and Opium, or other officer duly empowered by [2][the Provincial Government] in that behalf, which license shall be in force for a period of twelve calendar months from the date thereof, unless the person to whom the license is granted shall be deprived thereof under the provisions of this Act.

A fee of one rupee shall be paid for every such license.

12. Any sale of tobacco not exceeding in weight fourteen seers of eighty tolas to the seer shall be deemed to be a retail sale within the meaning of this Act.

13. It shall not be lawful for any licensed retail dealer in tobacco to carry on the retail sale of the same, or to keep any store of the same, except at such shop or other premises as may be specified in his license, and the name of every retail dealer in tobacco, together with the number of his license, shall be written or painted in English, Gujrati and Marathi, in plain and legible characters of not less than one inch in height, on a board to be affixed in a conspicuous manner in the front of the shop or premises where such retail sale is carried on.

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[1] [illegible] by the Tobacco Duty (Town of Bombay) [illegible] Act, [illegible] 1922) s. 4, [illegible]
[2] [illegible] by the [illegible]

Monthly returns of stock to be made by retail dealers.

14. Every retail dealer in tobacco shall, on or before the tenth day of each month, make to the Commissioner of Customs, Salt and Opium, or other officer as aforesaid a separate return for each shop or place of sale for which he holds a license, showing the quantity of tobacco on hand therein at the beginning of the preceding month, the quantity received during such month, and the persons from whom, and the dates on which, he received it, and the stock remaining at the close of such month;

and any retail dealer who refuses or neglects to make such return or makes a false return shall be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

Retail dealer to enter in book weight, etc., of tobacco received.

15. Every retail dealer in tobacco shall, on the same day on which he shall receive any tobacco, into any such shop or place of sale, enter in a book to be kept for that purpose the weight of such tobacco, the day on which he receives the same, and the name of the person from whom, and the place from which, he receives it;

Inspection of book.

and such book shall be open to the inspection of the Commissioner of Customs, Salt and Opium, or other officer as aforesaid, or of any person authorized by the Commissioner or such officer to inspect the same;

and the Commissioner or other officer or person as aforesaid inspecting the said book may make any minute therein, or any extract therefrom, which he shall think fit;

and any retail dealer who neglects or refuses to comply with the provisions of this section shall for every offence be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

Search-warrant.

16. The Commissioner of Customs, Salt and Opium, or other officer as aforesaid, may issue a warrant under his hand and seal to any public officer, commanding him

to enter and search between sunrise and sunset any building or place to be specified in the warrant in which tobacco may be deposited under the provisions of this Act, or in which the Commissioner or other officer as aforesaid has been credibly informed, which information shall be taken down in writing, that tobacco is deposited contrary to the provisions of this Act, and

to seize and to take away from thence any tobacco or other articles subject to confiscation under this Act.

Power to arrest and detain; to search vehicles, etc.

17. The Commissioner of Customs, Salt and Opium, or other officer as aforesaid, or any public officer authorised by the Commissioner or such officer may arrest and detain any person carrying or having charge of any tobacco liable to confiscation under this Act, and may detain and search any vessel or package, and any boat or vehicle, containing or conveying, or supposed to contain or convey, any such tobacco.

Confiscation of tobacco illegally imported, removed, etc.

18. All tobacco imported into the said town or removed from one place to another or kept within the said town, or found in the possession of any person in the said town selling or offering any portion thereof for sale contrary to the provisions of this Act, and

every vessel in which such tobacco is contained, and

every vehicle, boat or animal employed with the consent and knowledge of the owner or his servant in conveying the same,

shall be liable to confiscation

Provided always that it shall be lawful for the adjudicating officer to mitigate the penalty of confiscation herein provided by commuting the same to the payment of any fine not exceeding the value of the goods liable to confiscation, and every such fine may be enforced if necessary by the sale of the goods liable to confiscation

Mitigation of penalty

Enforcement of fine

19. Any person who shall illegally import, remove or sell in the said town any tobacco, or who shall knowingly have in his possession any tobacco subject to confiscation under this Act, shall be liable to a fine not exceeding ten times the value of such tobacco, and, if the offender is a licensed retail dealer, he shall be liable to be deprived of his license by the Commissioner of Customs, Salt and Opium, or other officer as aforesaid

Penalty for illegal importation, removal sale or possession

Revocation of license

20. All confiscations and fines under this Act may be adjudicated and levied by any Magistrate of Police for the town of Bombay

Goods adjudged liable to confiscation shall be sold under warrant of the Magistrate

Levy of fines and adjudication and sale of confiscations

[1][**20A.** Rules made under this Act shall be subject to previous publication

Publication of rules

20B. The powers and authorities conferred on the Commissioner of Customs, Salt and Opium and the officers of customs under the provisions of this Act are hereby conferred on and shall be exercised respectively by the Commissioner of Excise and such officers as Government may from time to time by general or special order appoint in this behalf, and

the duties imposed on the Commissioner of Customs Salt and Opium and the officers of customs under the provisions of this Act are hereby imposed on and shall be performed respectively by the Commissioner of Excise and the officers appointed by Government,

and references in this Act to the Commissioner of Customs, Salt and Opium and the officers of customs shall be deemed references to the Commissioner of Excise and the officers appointed by Government respectively]

The Commissioner of Excise and other officers appointed by Government to exercise powers and perform duties of the Commissioner of Customs, Salt and Opium and Customs officers

21. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the context repugnant to such construction —

Interpretation clause

the words "town of Bombay" shall include all places within the Islands of Bombay and Kolaba,

words importing the singular number shall include the plural number and words importing the plural number shall include the singular number,

words importing the masculine gender shall include females

[2][The words "the Commissioner of Excise" shall mean the officer appointed by Government for the time being to be the Commissioner of Excise]

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[1] Ins by the Tobacco Duty (Town of Bombay) Amendment Act, 1933 (Bom Act 14 of 1933), s 4

[2] Ins by *ibid* s 5

Meaning of Government. [1][22. In this Act, "Government" means, so long as the municipal duty is, by virtue of section 143 (2) of the Government of India Act, 1935, levied and **26 Geo. 5, c. 2** collected by the Provincial Government, that Government, and thereafter the Central Government.]

SCHEDULE A.

[2]FORM OF PERMIT.

No.

A. B. has been permitted to remove from (*Custom-house, or licensed warehouse, or shop No. situated in Kalbadevi Street, to warehouse or shop No. in Bazar Street*), the under-mentioned quantity of tobacco between sunrise and sunset on the day of in the year .

(Signed)

Commissioner of Customs, Salt and Opium.

THE ORIENTAL GAS COMPANY ACT.

CONTENTS.

PREAMBLE.

SECTIONS.

[1] Ins. by the A. O.
[2] *See* s. 9 *supra*.

ACT No V of 1857

[13th February, 1857]

An Act to confer certain powers on the Oriental Gas Company, Limited

WHEREAS a Joint Stock Company has been lately formed for the purpose of introducing Gas works into India, which Company having been completely registered in England under the Act of Parliament of the eighth year of the reign of Her present Majesty, Cap 110 has since been registered in England under "The Joint Stock Companies' Act 1856" with limited liability, and has duly obtained a certificate of Incorporation under the name of the Oriental Gas Company, Limited and whereas the said Company has erected Gas works on land granted for that purpose by Government in the vicinity of the Town of Calcutta, and is engaged in the preparation of apparatus and materials for the manufacture and supply of Gas for lighting the said Town, and whereas it is expedient that powers and facilities should be given to the said Company to enable them to carry out their undertaking of lighting with Gas the said Town of Calcutta, which powers and facilities may hereafter be extended to the operations of the said Company in other towns and places, It is enacted as follows — Preamble

1. In the Town of Calcutta and its environs and in any other town or place to which the provisions of this Act may hereafter be extended by a law to be passed for that purpose the Oriental Gas Company, Limited, under

Power to break up streets, etc., under

Oriental :er specified, may opcn and break up the
eets and bridges, and may open and break

Superintendence, and to open drains.

such superintendence as is hereinafwithin or under such streets and bridges,
soil and pavement of the several strsame limits pipes, conduits, service-pipes,
up any sewers, drains, or tunnels y time repair, alter, or remove the same,
and lay down and place within the y be necessary for carrying off the wash-
and other works, and from time tarise in the making of the Gas; and, for
and also make any sewers that map and use all earth and materials in and
ings and waste liquids which may they may in such streets erect any pillars,
the purposes aforesaid, may remov other acts which the said Company, shall
under such streets and bridges; andor supplying Gas to the inhabitants of the
lamps, and other works, and do all rons, or other town or place as aforesaid,
from time to time deem necessary the execution of the powers hereby granted,
said Town of Calcutta and its envidamage which may be done in the execu-
doing as little damage as may be in t
and making compensation for any ng herein shall authorize or empower the
tion of such powers. e any pipe or other works into, through,

Not to enter on private land without consent.

2. Provided always, that nothiland not dedicated to public use, without
said Company to lay down or placpiers thereof; except that the said Com-
or against any building, or in any and lay or place any new pipe in the place
the consent of the owners and occverein any pipe hath been already lawfully
pany may at any time enter upon of this Act, and may repair or alter any
of an existing pipe, in any land wh
laid down or placed in pursuance roceed to open or break up any street,
pipe so laid down. hey shall give to the Municipal Commis-

Notice to be served on persons having control, etc., before breaking up streets or opening drains.

3. Before the said Company p or other persons under whose control or
bridge, sewer, drain, or tunnel, tl to their Clerk, Surveyor, or other officer,
sioners for the Town of Calcutta, a to open or break up the same, not less
management the same may be, orng such work; except in cases of emergency
notice in writing of their intentiopipes or other works, and then so soon as
than three clear days before beginnie work, or the necessity for the same shall
arising from defects in any of the
is possible after the beginning of th, drain, or tunnel shall, except in the cases
have arisen. l or broken up, except under the superin-

Streets or drains not to be broken up, except under superintendence of persons having control of the same.

4. No such street, bridge, sewei control or management thereof, or of their
of emergency aforesaid, be opened as shall be approved of by such persons or
tendence of the persons having the erence respecting such plan, then according
officer, and according to such planed by a Magistrate; and such Magistrate
their officer, or in case of any diffrsons having the control or management of
to such plan as shall be determin officer, require the said Company to make
may, on the application of the pers they may think necessary for guarding
any such sewer or drain, or their rainage during the execution of any works
such temporary or other works wer or drain: Provided always that, if the
against any interruption of the dnanagement as aforesaid, and their officer,
which interfere with any such sefor the opening of any such street, bridge,

If persons having the control, etc., fail to superintend,

persons having such control or ring had such notice of the said Company's
fail to attend at the time fixed f
sewer, drain, or tunnel, after hav

intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said Company may perform the work specified in such notice without the superintendence of such persons or their officer

Company may proceed with the work

5. When the said Company open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be open or broken up every night during which the same shall be continued open or broken up, and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside

Streets broken up to be reinstated without delay

6. If the said Company open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid when so required, except in the cases in which the said Company are hereby authorized to perform such works without any superintendence or notice, or if the said Company make any delay in completing any such work, or in filling in the ground or reinstating and making good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same shall have been made good, or such further time as aforesaid, they shall *forfeit to the persons having the control or management of the* street, bridge, sewer, drain, or tunnel, in respect of which such default is made, a sum not exceeding fifty Rupees for every such offence, and they shall forfeit an additional sum not exceeding fifty Rupees for each day during which any such delay, as aforesaid, shall continue after they shall have received notice thereof

Penalty for delay in reinstating streets

7. If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the said Company, and the amount of such expense shall, in case of any dispute about the same, be ascertained and recovered in Calcutta and in any other town or place subject to the jurisdiction of any of Her Majesty's Courts of Judicature, in the manner in which expenses are ascertained and recovered under Act XIV of 1856, and in any

In case of delay, other parties may reinstate, and recover the expenses

Expense, how to be ascertained and recovered

town or place not within the jurisdiction of any of Her Majesty's Courts, in the same manner as damages are recoverable under this Act.

Power to enter buildings for ascertaining quantity of gas consumed.

8. The Clerk, Engineer, or other officer, duly appointed for the purpose by the said Company, may, at all reasonable times, enter any buildings or place lighted with Gas supplied by the said Company, in order to inspect the meters, fittings, and works for regulating the supply of Gas, and for the purpose of ascertaining the quantity of Gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall, for every such offence, forfeit to the said Company a sum not exceeding fifty Rupees.

Recovery of rents due for gas.

9. If any person supplied with Gas, or any person to whom any meter or fitting shall have been let for hire by the said Company, neglect to pay the rent due for the same to the said Company, the said Company may stop the Gas from entering the premises of such person, by cutting off the service-pipes, or by such means as the said Company shall think fit, and recover the rent due from such person, together with the expenses of cutting off the Gas, by action in any Court of competent jurisdiction.

Power to take away pipes when supply of gas discontinued.

10. In all cases in which the said Company are authorized to cut off and take away the supply of Gas from any house or building or premises under the provisions of this Act, the said Company, their agents or workmen, after giving twenty-four hours' previous notice to the occupier, may enter into any such house, building or premises, between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings or other works, the property of the said Company.

Meters not liable to distraint for rent, etc.

11. Any meter or fitting let for hire by the said Company shall not be subject to distress for rent or revenue, or any rate due upon the premises where the same may be used, nor be taken in execution under any process of a Court of law or equity, or any proceeding in insolvency against the person in whose possession the same may be.

Penalty for fraudulently using gas.

12. Every person who shall lay, or cause to be laid, any pipe to communicate with any pipe belonging to the said Company, without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the Gas supplied by the said Company is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said Company, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use or burn the Gas, or shall supply any other person with any part of the Gas supplied to him by the said Company, shall forfeit to the said Company the sum of fifty Rupees for every such offence, and also the sum of twenty Rupees for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be so committed or continued, or such supply furnished; and the said Company may take off the Gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into.

Penalty for wilfully

13. Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug, lamp, or other work of the said Company, for supplying Gas,

or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the Gas supplied by the said Company, shall, for each such offence, forfeit to the said Company any sum not exceeding fifty rupees, in addition to the amount of the damage done

Satisfaction for accidentally damaging pipes

14. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the said Company, or under their control, shall pay such sum of money by way of satisfaction to the said Company for the damage done, not exceeding fifty rupees, as any Magistrate shall think reasonable

Penalty for causing water to be corrupted

15. If the said Company shall at any time cause or suffer to be brought, or to flow into any stream, reservoir, aqueduct, pond, or place for water, or into drain communicating therewith, any washing or other substance produced in making or supplying Gas, or shall wilfully do any act connected with the making or supplying of Gas, whereby the water in any such stream, reservoir, aqueduct, pond, or place for water, shall be fouled, the said Company shall forfeit for every such offence a sum not exceeding one thousand rupees, and they shall forfeit an additional sum not exceeding five hundred rupees for each day during which such washing or other substance shall be brought or shall flow, or the act by which such water shall be fouled shall continue, after the expiration of twenty four hours from the time when notice of the offence shall have been served on the said Company, by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby and such penalties shall be paid to such last mentioned person

Daily penalty during the continuance of the offence.

Daily penalty during escape of Gas after notice

16. Whenever any Gas shall escape from any pipe laid down or set up by or belonging to the said Company, they shall, immediately after receiving notice thereof in writing, prevent such Gas from escaping, and in case the said Company shall not within twenty four hours next after service of such notice, effectually prevent the Gas from escaping, and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of fifty rupees for each day during which the Gas shall be suffered to escape, after the expiration of twenty four hours from the service of such notice

Penalty if water be fouled by Gas

17. Whenever any water shall be fouled by the Gas of the said Company, they shall forfeit to the person whose water shall be so fouled, for every such offence a sum not exceeding two hundred rupees, and a further sum, not exceeding one hundred rupees for each day during which the offence shall continue, after the expiration of twenty four hours from the service of notice of such offence

Power to examine Gas-pipes to ascertain cause of water being fouled

18. For the purpose of ascertaining whether such water be fouled by the Gas of the said Company, the person to whom the water supposed to be fouled shall belong may dig up the ground, and examine the pipes, conduits, and works of the said Company, provided that such person, before proceeding so to dig and examine, shall give twenty four hours' notice in writing to the said Company of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place where such digging is to take place, and

Regulations and Acts, and whereas it is expedient to make certain alterations in respect to the districts so removed, It is enacted as follows

1 * * * All the provisions of the said Act, which are applicable to the districts described in the said schedule shall, after the passing of this Act, be applicable only to the districts described in the schedule to this Act, in the same manner as if the schedule to this Act had been the schedule to Act XXXVII of 1855 Districts removed from operation of General Regulations and Acts

SCHEDULE

[Printed *ante*, pp 117 18]

THE OPIUM ACT, 1857

CONTENTS

1 Rep by the Repealing Act, 1870 (14 of 1870).

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[1][ACT NO. XIII OF 1857.]

[*6th June, 1857.*]

An Act to consolidate and amend the law relating to the cultiva-

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[1] Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

This Act has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6, to be in force throughout the former Province of Bengal and the former North-Western Provinces (that is, the Province of Agra), except the Scheduled Districts.

It has also been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (1) and Sch.; and in Oudh, subject to certain modifications, by the Oudh Laws Act, 1876 (18 of 1876), s. 3(*e*) and Sch. II. Ss. 21 to 23 and 25 to 29 of the Act have been declared to be in force in the C. P. by the C. P. Laws Act, 1875 (20 of 1875), s. 3 and Sch.

It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in :—

West Jalpaiguri in the Jalpaiguri District	*See* Gazette of India, 1881, Pt. I, p. 74.
Kumaon, Garhwal, the scheduled portion of the Mirzapore District and the Tarai Parganas	*See* Gazette of India, 1879, Pt. I, p. 383.

tion of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal[1]

Whereas the existing law relating to the cultivation of the poppy and the manufacture of opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed, — Preamble.

And whereas it is also expedient[2] * * * that the laws for preventing the illicit cultivation of the poppy, and for regulating the cultivation of the poppy and the manufacture of opium on account of Government, should be consolidated and amended,

It is enacted as follows —

1 [*Laws repealed*] *Rep by the Repealing Act 1870 (XIV of 1870)*

2 [*Prohibition of poppy cultivation and opium manufacture*] *Rep by the Opium Act, 1878 (I of 1878)*

[3][3 (1) The [4][Central Government] after consideration of any recommendation made in this behalf by the [5][Provincial Government] of the province for which the appointment is to be made may appoint Opium Agents to superintend the provision of opium for [6][the Central Government] — Appointment of officers to superintend provision of opium

(2) The [4][Central Government] may appoint officers to assist the Opium Agents under the designation of Deputy Agents district opium officers assistant opium officers, or such other designations as he may think fit and may delegate to the Opium Agents the power of appointing all or any of such officers

(3) Unless the [4][Central Government] after consideration of any recommendation made by the [5][Provincial Government] in this behalf otherwise directs the Collector shall be Deputy Agent for his district

(4) The [4][Central Government] may by rule prescribe the powers and duties of officers appointed under this section]

The Districts of Hazaribagh Ranchi [illegible]

[illegible] *See* Gazette of India 1881, Pt I p 504

The application of the Act is barred in the Chittagong Hill tracts by the Chittagong Hill tracts Regulation 1900 (1 of 1900) s 4 (2) in the District of Angul by the Angul Laws Regulation 1913 (3 of 1913) s 3 (2)

The validity of the Act is not affected by the Dangerous Drugs Act 1930 (2 of 1930) or by the rules made thereunder, see *ibid* s 39(2)

[illegible]

[3] Subs by the Opium (Amendment) Act 1925 (2[illegible] of 19[illegible]) s 2 and Sch, for original section

[4] Subs by the A O for G G in C

[5] Subs by the A O for I G

[6] Subs by the A O for Govt

Officers amenable to Civil Courts.

4. The Opium Agents, and their subordinate officers of every description, are declared amenable to the Civil Courts for all acts done by them in their official capacity, except as otherwise herein provided.

Bar of suit without previous application to Agent for redress.

But no suit shall be instituted against an Agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent or officer shall have first made application for redress to the Agent himself.

In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before [1][the Central Government], or at once to seek redress in the Civil Court.

Sanction to suit by Agent.

5. The Opium Agents shall not in their official capacity institute any suit in a Civil Court without the previous sanction of [1][the Central Government].

Power of Central Government to appoint officer to conduct suits.

[2][6. [3][The Central Government] may take upon itself, or entrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which [3][the Central Government] or an Agent, or any other officer subordinate to [3][the Central Government], may be engaged, instead of leaving such superintendence to the Agent or any other officer.]

Board to fix limits of cultivation and price to be paid to cultivators.

7. [4]* * * * [3][the Central Government] shall from time to time fix the limits within which licenses may be given for the cultivation of the poppy on account of [3][the Central Government].

[5][The Central Government] shall from time to time fix the price to be paid to the cultivators for the opium produced.

The price shall be fixed at a certain sum per seer of eighty *tolas* for opium of a certain standard consistence, and shall be subject to a rateable reduction according to a scale sanctioned by [6][the Central Government], for opium of a consistence below the standard.

Issues of licenses.

8. The [7][district opium officers] or other officers entrusted with the superintendence of the cultivation shall, at the proper period of the year, issue licenses to the cultivators who may choose to engage to cultivate the poppy and to deliver the produce to the officers of [3][the Central Government] at the established rates.

What to be specified in license.

Every license shall specify the number of *bighas* which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of [6][the Central Government] may direct.

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[1] Subs. by the A. O. for the word "Govt." which had been subs. for the words "the Board of Revenue" by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch.

[2] Subs. by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch.

[3] Subs. by the A. O. for "Govt."

[4] The words "The Board of Revenue with the sanction of" rep. by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch.

[5] Subs. by the A. O. for the word "Govt." which had been subs. for "With the like sanction they" by Act 27 of 1925.

[6] Subs. by the A. O. for the word "Govt." which had been subs. for "the Board of Revenue" by Act 27 of 1925.

[7] Subs. by Act 27 of 1925 for "Sub-Deputy Agents".

9 It shall be at the option of every cultivator to enter into engagements for the cultivation of the poppy or not as he may think fit, and any [1][district opium officer] or other officer as aforesaid, or any inferior officer employed in the provision of opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the poppy, shall be liable to be dismissed from his situation

Cultivator to have option to engage to cultivate or not

Officers compelling cultivator to engage liable to be dismissed

It shall be at the option of the [1][district opium officer] or other officer as aforesaid to withhold a license from any cultivator whenever he may think proper so to do

District opium officer may withhold license to cultivate

Any person to whom a license has been refused may appeal to the Agent and the decision of the Agent shall be final

Appeal

10. If it shall be found that any cultivator who has received advances from [2][the Crown] has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate, and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the [1][district opium officer] or other officer as aforesaid

Penalty on cultivator receiving advances and not cultivating full quantity of land.

Adjudication of penalty

Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final

Appeal

11. All opium the produce of land cultivated with poppy on account of [2][the Central Government] shall be delivered by the cultivators to the [3][district opium officers] or [4][other officers duly authorized to receive such opium], or shall be brought by them to the *sadar* factory, as the Agent may direct

Delivery of opium produced

And no such opium shall be liable to be distrained or attached by a *zamindar* or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but the sum due to the cultivator on account of such opium may be attached by order of Court in the hands of the Agent or [5][other] officer under the rules in force for such attachments

Opium not liable to distress or attachment

Value thereof may be attached

12. All opium delivered by the cultivators to the [1][district opium officer] or [6][other officer authorised as aforesaid] shall, before it is forwarded to the *sadar* factory, be weighed, examined and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by [7][the Central Government]

Opium to be weighed and classified by district opium officer

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[1] Subs by Act 27 of 1925 for "Sub Deputy Agent

[2] Subs by the A O for "Govt"

[3] Subs by the Opium (Amendment) Act, 1925 (27 of 1925), s 2 and Sch for ' Sub Deputy Agents "

[4] Subs by *ibid* for "other district officers'

[5] Subs. by *ibid* for ' of the district'

[6] Subs by *ibid* for "other district officer'

[7] Subs by the A O for the word "Govt" which had been subs for the words "the Board of Revenue' by Act 27 of 1925

Proceeding where cultivator is dissatisfied with classification.

Any cultivator who may be dissatisfied with the classification of the [1][receiving officer] shall be at liberty either to take his opium to the *sadar* factory, or to have it forwarded thither by such officer separate from the opium respecting which no dispute has arisen.

Weighing and examination at *sadar* factory.

13. All opium forwarded by the [2][receiving] officers to the *sadar* factory, and all opium delivered at the *sadar* factory, by the cultivators, shall be there weighed and examined by the Opium Examiner or other officer duly authorized in that behalf, agreeably to rules sanctioned by [3][the Central Government]; and the quality and consistence of the opium, and deductions from or additions (if any) to the standard price to be made in accordance with the said rules, shall be determined by the result of such examination.

The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

Confiscation of adulterated opium.

14. When opium delivered by a cultivator, either to a [4][receiving] officer, or at the *sadar* factory, is suspected of being adulterated with any foreign substance it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator.

Adjudication of confiscation.

If upon such examination the opium shall be found to be so adulterated, the Agent on the report of the Examiner may order that it be confiscated, and the order of the Agent shall be final and not open to question in any Court.

Weights and scales;

15. The weights and scales made use of in the *sadar* factories and at the district *kothis* shall be provided by [3][the Central Government].

examination thereof.

Every [1][district opium officer] shall annually, before beginning to weigh the opium of the season, examine the weights and scales in use in his district and shall report the result of such examination to the Agent.

The Agent shall make a similar examination of the weights and scales of the *sadar* factory, and shall report the result to [5][the Central Government].

No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate.

It shall be the duty of all officers who may superintend the weighing of opium to see that the opium is weighed fairly with an even beam; and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

Adjustment of cultivator's accounts and

16. The accounts of the cultivators shall be adjusted annually by the [6][district opium officers or other officers duly authorized in this behalf] as soon after the conclusion of the weighing and examination as possible; and

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[1] Subs. by Act 27 of 1925 for "district officer".

[2] Subs. by *ibid* for "district".

[3] Subs. by the A. O. for the word "Govt." which had been subs. for the words "the Board of Revenue" by Act 27 of 1925.

[4] Subs. by the *Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch.* for "district".

[5] Subs. by the A. O. for the word "Govt." which had been subs. for "the Board" by Act 27 of 1925.

[6] Subs. by Act 27 of 1925 for "district officers".

any balance that may remain due from any cultivator, or from any *mahto* or intermediate manager, may be recovered by the [1][adjusting officer] by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held *khas* may be distrained and sold by the Collector for the recovery of an arrear of rent or revenue

recovery of balance by distress

Provided that no warrant of distress and sale shall be issued by any [2][adjusting officer] without the sanction of the Agent previously obtained

Sanction to issue of warrant

17. Any officer of the Opium Department who shall receive any fee, gratuity, perquisite or allowance, either in money or effects, under any pretence whatsoever, from any cultivator, or from any other person employed or concerned in the provision of opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred rupees

Penalty on officer taking bribes

18. If any *zamindar* or other proprietor of land, or any farmer of land shall exact from any *raiyat* on account of his poppy land any illegal cess or any higher rate of rent than he is lawfully entitled to demand the raiyat or the [3][district opium officer] or [4][other officer duly authorized in this behalf], may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess, and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent

Exceptions by land holder from raiyat recoverable, together with penalty, in summary suit before Collector

19. Any cultivator entering into engagements for the cultivation of the poppy on account of [5][the Central Government] who may embezzle, or other wise illegally dispose of, any part of the opium produced shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation

Penalty for embezzlement of opium by cultivator

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of [5][the Central Government], or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium,

Penalty for illegal purchase of opium from cultivator,

and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium,

and for illegal connivance at embezzlement by Opium officer

shall be liable to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for or illegally disposed of shall exceed the weight

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[1] Subs by Act 27 of 1925 for "district officer'

[2] Subs by the Opium (Amendment) Act, 1925 (27 of 1925), s 2 and Sch, for "district officer"

[3] Subs for "Sub Deputy Agent" by *ibid*

[4] Subs for "other district officer on his behalf" by *ibid*

[5] Subs by the A O for "Govt"

of thirty-one seers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per seer for all such opium in excess of that weight;

and the opium, if found, shall be liable to confiscation.

Penalty for unlicensed cultivation.

21. Any person who shall cultivate the poppy without license from a [1][district opium officer] or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty *bighas*, in which case the fine may be at the rate of twenty-five rupees per *bigha*; and the poppy plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per *bigha* of land illegally cultivated.

Duty of landholders and others to give information of illegal cultivation.

22. All proprietors, farmers, *tahsildars*, *gumáshtas* and other managers of land shall give immediate information to the police or *abkári darogas*, or opium *gumáshtas*, or to the Magistrates, Collectors or officers in charge of the *abkári mahál*, or to the Agents, their deputies or [2][the district opium officers], of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, *tahsildar*, *gumáshta* or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

Duty of police and other officers to give information of illegal cultivation.

23. All police and *abkári darogas*, and opium *gumáshtas*, and all Native officers of [3][Crown] of whatever description, and all *chaukidars*, *paiks* and other village police-officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy; and such authority shall transmit the information to the [1][district opium officer] or other officer superintending the cultivation of the poppy if in a district where the poppy is cultivated on account of [3][the Central Government], or to the Collector or officer in charge of the *abkári mahál* if in a district where the poppy is not so cultivated.

Every police or *abkári daroga*, opium *gumáshta*, Native officer, *chaukidar* or other police-officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

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[1] Subs. for "sub-deputy Agent" by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch.

[2] Subs. for "sub-deputies" by *ibid.*

[3] Subs. by the A. O. for "Govt."

24 Whenever a police or *abkari daroga* or opium *gumashta* shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy he shall immediately proceed to the spot and if the information be correct shall attach the crop so illegally cultivated and report the same without delay to the authority to which he may be subordinate — Police or *abkari daroga* how to proceed in case of illegal cultivation

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate and in the event of such cultivator not giving the required security he shall send him in custody to the Magistrate

25 Proprietors farmers *tahsildars* *gumashtas* and other managers of land shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them and shall immediately report such attachment to the nearest police or *abkari daroga* or opium *gumashta* who shall thereupon proceed in conformity with the rules contained in the last preceding section — Landholders, etc may attach in case of illegal cultivation.

26 Except as otherwise herein provided all fines penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or [1][district opium officer] in districts in which the poppy is cultivated on account of [2][the Central Government] and in other districts on the information of the Collector or officer in charge of the *abkari mahal* — Adjudication of penalties

Provided that no information of an offence against this Act shall be admitted unless it be preferred within the period of one year after the commission of the offence to which the information refers

27 When any person is sentenced to pay any fine or penalty under this Act such person in default of payment of the same may be imprisoned by order of the Magistrate for any time not exceeding six months or until the fine is sooner paid — Imprisonment in default of payment of fine

28 Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence he shall be liable in addition to the penalty attached to such offence to imprisonment for a period not exceeding six months and a like punishment of imprisonment not exceeding six months shall be incurred in addition to the punishment which may be inflicted for a first offence upon every subsequent conviction after the second — Punishment for repetition of offences

29 Every person who shall be imprisoned under the last preceding section or on account of the non payment of any fine or penalty prescribed by this Act unless such person be an officer of [3][the Crown] or a village police officer convicted of an offence under section 17, 20 or 23 shall be imprisoned in the civil jail — Place of imprisonment under section 28

30 One half of all fines and penalties levied from persons convicted of offences under sections 19, 20 and 21 of this Act together with a reward of one rupee eight annas for each seer of opium confiscated and declared by — Disposal of fines and forfeitures.

[1] Subs for "sub deputy Agent" by the Opium (Amendment) Act 1925 (27 of 1925) s 2 and Sch

[2] Subs by the A. O for "Govt."

the Civil Surgeon to be fit for use, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each seer of opium confiscated as aforesaid, shall be given to the informer.

If in any case the fine or penalty is not realized, the [1][Opium Agent] may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to [2][him] fit.

Central Government may allow free cultivation of poppy and manufacture of opium in any district.

31. The [3][Central Government] may authorize, by an order [4]* * * *, the cultivation of the poppy and the manufacture of opium in any district or districts without license from a [5][district opium officer] or other officer of [6][the Crown]; and, when such order has been published, all the provisions of this Act shall cease to have effect in such district or districts :

Power to prescribe rules for delivery to Government officers.

Provided always that [7][the Central Government] may prescribe rules for the delivery of the opium so produced to officers of [6][the Crown] appointed to receive it; and, when such rules have been passed, any cultivator or other person engaged in the cultivation of the poppy and manufacture of opium who shall dispose of any opium otherwise than is allowed by such rules, and any person who shall purchase or receive any such opium in contravention of the said rules, shall be subject to the penalties prescribed in section 19 of this Act; and such penalties may be adjudged by a Magistrate on the information of any officer of [6][the Crown] or of any other person.

[8]**32.** [*Meaning of "Government".*] *Rep. by the A. O.*

THE HOWRAH OFFENCES ACT, 1857.

CONTENTS.

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[1] Subs. by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch., for "Board of Revenue".
[2] Subs. by *ibid* for "them".
[3] Subs. by the A. O. for "G. G. of India in C."
[4] The words "of Govt." rep. by the A. O.
[5] Subs. by Act 27 of 1925 for "Sub-deputy Opium Agent".
[6] Subs. by the A. O. for "Govt."
[7] Subs. by the A. O. for "the Govt."
[8] S. 32 which was added by Act 27 of 1925 read as follows :—"In this Act, except in s. 23, where the word occurs for the first time, and in s. 29 'Govt.' means the 'G. of I.'"

[1][THE HOWRAH OFFENCES ACT, 1857.]

ACT NO. XXI OF 1857.

[*10th July. 1857.*]

An Act to make better provision for the order and good government [2]* * * of the station of Howrah.

Preamble.

WHEREAS Acts have been passed for regulating the police and for the conservancy and improvement of the town of Calcutta and of the other presidency-towns: and whereas large portions of [3]* * * the station of Howrah are not less populous than parts of the said town, and it will conduce to the order and good government of the said [4]* * * station that some of the provisions of the said Acts, with certain necessary modifications, should be extended to the said [4]* * station: It is enacted as follows:—

Cases under this act by whom to be tried.

1. Whoever is charged with having committed any of the offences mentioned in this Act, within the limits of the said [5]* * station, as described in the Schedule hereunto annexed, may be tried for any such offence by the Magistrate within whose jurisdiction the offence is alleged to have been committed;

and, on conviction, may be sentenced by such Magistrate to the punishment hereinafter prescribed for the offence.

Possession of stolen property by one who fails to account satisfactorily for the possession.

2. *Clause 1.*—Whoever has in his possession, or conveys in any manner, any thing which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to account satisfactorily how he came by the same, be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Power to summon persons declared to have had possession of stolen property within the jurisdiction of the Magistrate.

Clause 2.—If any person, charged with having or conveying anything stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent or servant to convey the same for some other person,

the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate) to be brought before him and examined, and shall examine witnesses touching the same;

Penalty if such possession fraudulent.

and if it appear to such Magistrate that any person so brought before him had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable

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[1] Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.
This Act applies only to Howrah.
[2] The words "of the suburbs of Calcutta and" rep. by the Repealing Act, 1874 (16 of 1874).
[3] The words "the suburbs of the said town of Calcutta and of" rep. by *ibid.*
[4] The words "suburbs and" rep. by *ibid.*
[5] The words "suburbs or" rep. by *ibid.*

to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months

3 Any person found, between sunset and sunrise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any offence against the person or property of another, Apprehension and punishment of reputed thieves etc

any reputed thief found between sunset and sunrise, on board any vessel or boat, or lying or loitering in any *bazar*, street road yard, thoroughfare or other place, who shall not give a satisfactory account of himself,

any person found, between sunset and sunrise, having his face covered or otherwise disguised, with intent to commit any such offence as aforesaid,

any person found, between sunset and sunrise, in any dwelling house or other building whatsoever, without being able satisfactorily to account for his presence therein,

and any person having in his possession without lawful excuse (the proof of which excuse shall be on such person), any implement of house breaking,

shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months,

and any such person may be taken into custody by any police officer without a warrant

4 to 6 [*Penalty for carrying arms without authority, order for maintenance of wives or children, penalty for harbouring deserters from merchant vessels*] *Rep by the Bengal Municipal Act, 1884* (*Ben Act III of 1884*)

7 On the complaint of three or more householders that a house in their immediate neighbourhood is used as a common brothel or lodging house for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity the Magistrate may summon the owner or tenant of the house to answer the complaint, Brothels

and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it,

and, if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty five rupees for every day thereafter that the house shall be so used

8, 9 [*Licenses for retail sale of spirituous or fermented liquors*] *Rep by the Bengal Municipal Act, 1884* (*Ben Act III of 1884*)

10. Whoever, being the owner or occupier, or having the use of any house, room or place, keeps or uses the same as a common gaming house, Penalty for owning or keeping or having charge of, a gaming house, etc

and whoever being the owner or occupier of any house or room, knowingly and wilfully permits the same to be kept or used by any other person as a common gaming house,

and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room or place so kept or used,

and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Penalty for being found playing in a gaming-house.

11. Whoever is found in any such house, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or

is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise,

shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month;

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Magistrate may authorize certain police-officers to enter a gaming-house for the purpose of search and seizure.

12. If the Magistrate, upon information on oath, and after such inquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house, he may, by his warrant, give authority to any superior officer of police

to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place,

and to take into custody all persons whom he finds therein whether or not then actually gaming,

and to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein,

and to search all parts of the house, room or place which he shall have so entered when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody,

and to seize and take possession of all instruments of gaming found upon such search.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed, etc.

13. On conviction of any person for keeping any such common gaming-house or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate;

who may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all moneys seized therein, to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Portion of fine may be paid to informer.

14. The Magistrate may direct any portion, not exceeding one-fourth of any fine which shall be levied under sections 10 and 11 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under section 13, to be paid to an informer.

Gambling in the streets.

15. A police-officer may apprehend without warrant any person found gaming with cards, dice, counters, money or other instruments of gaming in any public street, place or thoroughfare;

and such person shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month,

and such instruments of gaming and money shall be forfeited

[1][15A Nothing in sections 10 to 15 shall apply to any game of mere skill wherever played] Exemption of games of mere skill

16, 17. [*Pawnbrokers, etc, to report stolen property, pawnbrokers, etc, when to be deemed, receivers of stolen goods*] *Rep by the Bengal Municipal Act, 1884* (*Ben Act III of 1884*)

18 Whoever manufactures gunpowder, Manufacture or possession of gun powder

or, without a license from the Magistrate, has in his possession in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds,

shall be liable to a fine not exceeding two hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained

19. The Magistrate may grant to any person a license for the sale or keeping in deposit of any quantity of gunpowder not exceeding fifty pounds on such conditions, and for such term not exceeding one year, as shall be specified in the license, Licenses by Magistrate for sale and deposit of gunpowder, etc

and any person who shall be guilty of a breach of any of such conditions shall be liable to a fine not exceeding one hundred rupees, and to forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also to forfeit his license

20. Whoever is found drunk and incapable of taking care of himself or is guilty of any riotous or indecent behaviour in any street or thoroughfare or in any place of public amusement or resort, Penalty for drunkenness, or riotous or indecent behaviour in public

and whoever is guilty of violent behaviour in any police-office,

shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding fourteen days

21. Whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself in or by the side of or near to any public street or thoroughfare or place, shall be liable to a fine not exceeding ten rupees, or, in default of payment thereof, to imprisonment, with or without hard labour, for a term not exceeding fourteen days. Penalty for committing nuisance in streets

22. Whoever in any public road, street, thoroughfare or place, begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, Beggars

or whoever seeks for or obtains alms by means of any false statement or pretences,

shall be liable to imprisonment, with or without hard labour, for any term not exceeding one month

[1] Ins by the Bengal Public Gambling (Amendment) Act, 1913 (Ben. Act 4 of 1913).

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Penalty for being found playing in a gaming-house.

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is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise,

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Magistrate may authorize certain police-officers to enter a gaming-house for the purpose of search and seizure.

12. If the Magistrate, upon information on oath, and after such inquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house, he may, by his warrant, give authority to any superior officer of police

to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place,

and to take into custody all persons whom he finds therein whether or not then actually gaming,

and to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein,

and to search all parts of the house, room or place which he shall have so entered when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody,

and to seize and take possession of all instruments of gaming found upon such search.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed, etc.

13. On conviction of any person for keeping any such common gaming-house or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate;

who may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all moneys seized therein, to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

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19. The Magistrate may grant to any person a license for the sale or keeping in deposit of any quantity of gunpowder not exceeding fifty pounds on such conditions, and for such term not exceeding one year, as shall be specified in the license, Licenses by Magistrate for sale and deposit of gunpowder, etc

and any person who shall be guilty of a breach of any of such conditions shall be liable to a fine not exceeding one hundred rupees, and to forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also to forfeit his license

20. Whoever is found drunk and incapable of taking care of himself or is guilty of any riotous or indecent behaviour in any street or thoroughfare or in any place of public amusement or resort, Penalty for drunkenness, or riotous or indecent behaviour in public

and whoever is guilty of violent behaviour in any police office,

shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding fourteen days

21. Whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself in or by the side of or near to any public street or thoroughfare or place, shall be liable to a fine not exceeding ten rupees, or, in default of payment thereof, to imprisonment, with or without hard labour, for a term not exceeding fourteen days. Penalty for committing nuisance in streets

22. Whoever in any public road, street, thoroughfare or place, begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, Beggars

or whoever seeks for or obtains alms by means of any false statement or pretences,

shall be liable to imprisonment, with or without hard labour, for any term not exceeding one month

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[1] Ins by the Bengal Public Gambling (Amendment) Act, 1913 (Ben Act 4 of 1913), s 3

Penalty for the following offences in public streets, etc.—

23. Whoever, in any public street, road, thoroughfare or place of public resort, commits any of the following offences shall be liable to a fine not exceeding twenty rupees :—

furious or negligent driving or riding :

i.—Whoever drives or rides any animal or drives any vehicle in a manner so rash or negligent as to indicate a want of due regard for the safety of others :

letting loose horses, ferocious dogs, etc. :

ii.—Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry or put in fear any person, horse or other animal :

leaving cart, etc., without control :

iii.—Whoever, being in charge of a cart, carriage or horse, leaves it at such a distance as not to have the same under due control :

obstruction to passengers by fastening animals :

iv.—Whoever fastens any animal so as to cause obstruction or danger to passengers :

ill-treating animals :

v.—Whoever cruelly beats, abuses or tortures any animal :

lighting fires and discharging guns, fire-works, etc.

vi.—Whoever sets fire to or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon.

24. [*Beating drums, tomtoms, etc.*] *Rep. by the Bengal Municipal Act, 1884 (Ben. Act III of 1884).*

25 to 32. [*Penalty for depositing dirt on street, etc.; allowing sewerage to flow on street; future obstructions in street; taking up pavement; removal of projections from houses; houses projecting to be set back when taken down; power to trim hedges bordering on roads.*] *Rep. by the Bengal Municipal Act, 1876 (Ben. Act V of 1876).*

33 to 37. [*Houses in dangerous state; sale of materials of such houses; penalty for not removing filth; filthy houses, etc.; filthy cattle-stalls, etc.*] *Rep. by the Bengal Municipal Act, 1884 (Ben. Act III of 1884).*

38. [*Licensing of public necessaries.*] *Rep. by the Bengal Municipal Act, 1876 (Ben. Act V of 1876).*

39. [*Neglecting private drains, etc.*] *Rep. by the Bengal Municipal Act, 1884 (Ben. Act III of 1884).*

40 to 45. [*Penalty for fouling water; power to fill up unwholesome tanks; power to drain off stagnant pools; penalty for not lighting deposits of building materials or excavations; enclosing of dangerous places; penalty for establishing slaughter-houses without license.*] *Rep. by the Bengal Municipal Act, 1876 (Ben. Act V of 1876).*

46. [*Unclean slaughter-houses.*] *Rep. by the Bengal Municipal Act, 1884 (Ben. Act III of 1884).*

47 to 50. [*Offensive trades; burial and burning grounds; stray dogs.*] *Rep. by the Bengal Municipal Act, 1876 (Ben. Act V of 1876).*

Police-officer may arrest without warrant on view of offence.

51. Any police-officer may arrest without a warrant any person committing in his view any offence against this Act, if the name and address of such person be unknown to him.

52. Any police-officer may take into custody, without a warrant, any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed although not in his view, and that, by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender

Police officer may take into custody, without warrant, persons charged with aggravated assault recently committed.

53. Every person taken into custody without a warrant by a police-officer under this Act shall be taken to the nearest police-office, in order that such person may be detained until he can be brought before the Magistrate, or until he shall enter into recognizances, with or without sureties for his appearance before the Magistrate

Any person so detained and not entering into recognizances shall be carried before the Magistrate within twenty four hours from the time of his being taken into custody

Persons taken into custody by a police officer without warrant may be detained in police office until brought before Magistrate or bailed

54. Upon any information or complaint laid before the Magistrate of any offence committed against this Act, the Magistrate may summon the person charged to appear at a time to be mentioned in the summons, or, if he see sufficient cause for so doing may issue a warrant for his apprehension

Procedure on information or complaint laid before the Magistrate of an offence against this Act

[1]* * * * * * *

In all cases of offences punishable with fine only, if after due service of summons the person charged shall not appear in pursuance thereof, the Magistrate, at his discretion, may hear and determine the case in his absence

[2]* * * * * * *

55. [*Recovery of costs or expenses*] *Rep by the Amending Act, 1903 (I of 1903)*

56. Any Joint Magistrate or Deputy Magistrate duly authorized to exercise the powers of a Magistrate, and any Assistant vested with special powers may, in cases referred to him by the Magistrate, exercise all the powers vested in a Magistrate by this Act

Jurisdiction.

57. [3][*Application of fines*] *Rep by the A O*

58. [*Supersession of Act XXI of 1841*] *Rep by the Amending Act, 1891 (XII of 1891)*

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[1] Certain words rep by the Amending Act, 1903 (1 of 1903)

[2] [illegible] order of a Magistrate passed [illegible] 49 of this Act," rep by the [illegible]

[3] "All fines imposed and levied under this Act shall be applied in aid of any fund applicable to police and conservancy purposes in the said station,
and all costs and expenses which the Magistrate is hereby authorized to incur shall be paid from and repaid to such fund, or, if there be no such fund, all such fines as aforesaid shall be applied by the Magistrate to the cleansing or otherwise improving of the said station"

See para 4 of the India and Burma (Transitory Provisions) Order, 1937.

Interpretation.

59. In the construction of this Act,

[1]* * * * * * *

[2]["gaming" includes wagering or betting (except wagering or betting upon a horse-race, when such wagering or betting takes place—

(a) on the day on which such race is to be run, [3]* * *

(b) in an enclosure which the Stewards controlling such race have, with the sanction of the [4][Provincial Government], set apart for the purpose, [5][and

(c) (i) with a licensed bookmaker, or

(ii) by means of a totalisator,

as defined in section 14 of the Bengal Amusements Tax Act, 1922]), but does not include a lottery; "instruments of gaming" includes any article used as a means or appurtenance of, or for the purpose of carrying on or facilitating, gaming; and "common gaming-house" means any house, room, tent, or walled enclosure, or space, or vehicle, or any place whatsoever, in which any instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room, tent, enclosure, space, vehicle or place, whether by way of charge for the use of such house, room, tent, enclosure, space, vehicle, place or instruments or otherwise howsoever.]

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[6]SCHEDULE

Of places included in the [7]* * * * *Station of Howrah*

[8]* * * * * * *

STATION OF HOWRAH.

Howrah (including)

Panchánantalá.
Juláhápárá.
Chándmári (with Tandel Bágán).
North Betrá.
South Betrá.
Ichápur.

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[1] The clauses relating to "number" and "gender" rep. by the Amending Act, 1903 (1 of 1903).—*See* now the General Clauses Act, 1897 (10 of 1897), s. 13.

[2] Subs. by the Bengal Public Gambling (Amendment) Act, 1913 (Ben. Act 4 of 1913), s. 2, for the original definitions which had been inserted by the Bengal Rain-Gambling Act, 1897 (Ben. Act 3 of 1897), s. 3.

[3] The word "and" rep. by the Bengal Amusements Tax Act, 1922 (Ben. Act 5 of 1922), s. 23.

[4] Subs. by the A. O. for "L. G."

[5] Ins. by the Bengal Amusements Tax Act, 1922 (Ben. Act 5 of 1922), s. 23.

[6] *See* s. 1 *supra*.

[7] The words "Suburbs of Calcutta and" rep. by the Repealing Act, 1874 (16 of 1874).

[8] The part of this Schedule which was headed "Suburbs of Calcutta" was rep. by the Repealing Act, 1874 (16 of 1874).

Howrah (including)—*contd*
Saunpur
Goládángá
Ramkrishnapur
Khurat (with Kasondiyá)
Chakarber
Santrágáchhi
Sathgharra
Gudár Hát (with Kinkar Chatterjea's Hat).
Battore.

Sibpur (with Baji Sibpur, Majerhat, Bharpara, Bhattatala, Sriharinaupara, Bishop's College and Company's Botanical Garden)
Padmapukhar
South Baksara
North Baksara

Salkiya (including)
Bándághát (with Haraganj and Banurjyapara).
Ghoosery (with Bhát Bágán)
Malipánchghara
Barrackpore
Bellur
Naksha
Chakpára
Nallua
Belgáchhiyá (with Paikan Belgáchhiyá)
Báhmangachchi
Chaurasta (with Dharmtalá, Goghátá and Bábudanga)
Golábári (with Filkhána).

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[1][THE MADRAS COMPULSORY LABOUR ACT, 1858.]

Act No. I of 1858

[*20th January, 1858.*]

An Act to make lawful compulsory labour for the prevention of mischief by inundation, and to provide for the enforcement of customary labour on certain works of irrigation in the Presidency of Fort St. George.

Whereas the safety of person and property is endangered by inundations caused by sudden breaches of the embankments of tanks, rivers and canals, Preamble.

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[1] Short title given by the Amending Act, 1901 (11 of 1901)
This Act was declared by the Laws Local Extent Act, 1874 (15 of 1874) s. 4 and Sch. II, to be in force in the whole of the Presidency of Madras except the Scheduled Districts.

and of anicuts and other like works; and it is necessary for the common good to make it obligatory on persons of the labouring classes, when duly called upon, to unite their labour to prevent such breaches, or to repair them instantly; and whereas it is expedient to make legal provision for the enforcement of the duty, which by local custom is incumbent on village-communities, to furnish the labour required for the execution of certain works for the purpose of irrigation and drainage; It is enacted as follows:—

Labourers may, in certain cases, be called upon to assist in preventing or repairing breaches in embankments and anicuts.

Whenever it shall appear to the officer in charge of any tank, river or canal, or of any anicut or other like work, that there is imminent danger of the embankment of such tank, river or canal being breached, or of a breach being made in such anicut or other work, and of a destructive inundation being caused thereby, which may be prevented by a large body of labourers immediately working together to strengthen the embankment or other work, or when such a breach has occurred, if it shall appear to such officer that it can be repaired, and the inundation caused by it be stopped, by the immediate employment of a large body of labourers for that purpose, it shall be lawful for such officer to require the head or heads of the village or villages in the vicinity to call upon all able-bodied male persons of the labouring classes in such village or villages to co-operate in the work necessary for preventing or repairing the breach, as the case may be.

In the absence of the said officer, it shall be lawful for the táhsíldár of the taluq to make such requisition in his stead.

And if neither the said officer nor the táhsíldár is on the spot, and the emergency is great and urgent, it shall be lawful for the head of the village in which the breach is expected to occur or has occurred, of his own motion, to call upon the labourers as aforesaid of his own village, and, if needful, to make a requisition to the heads of the neighbouring villages to call likewise upon the labourers of their villages, to co-operate in the work necessary for preventing or repairing the breach.

Punishment for refusing or neglecting to comply with such call.

2. Any male person of the labouring classes being duly called upon by the head of his village to labour as aforesaid, who shall refuse or neglect to comply with such call without any lawful excuse shall, on conviction before a Magistrate or an officer exercising the ordinary powers of a Magistrate, be punished with a fine which may extend to one hundred rupees, or with simple imprisonment which may extend to one month, or with both.

Rate of remuneration.

3. Every person who shall be employed on such work, under such requisition shall be paid for his labour by day at the highest rate paid in the neighbourhood for similar work and, if he is required to work at night, at double such rate.

Under s. 3 (*b*) of the Scheduled Districts Act, 1874 (14 of 1874), the Act has been declared not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see* Fort St. George Gazette, 1898, Pt. I, p. 667, and Gazette of India, 1898, Pt. I, p. 872. The Act has been extended by a notification under s. 5 of the same Act to the Vizagapatam Agency and the Bhadrachalam and Nugur taluks of the Godavari Agency—*see* Fort St. George Gazette, 1930, Pt. I, p. 553. The Act has been declared by a notification under s. 3 (*a*) of the same Act to be in force in the Dutcharti and Guditer Muttas of the Godavari Agency—*see* Fort St. George Gazette, 1930, Pt. I, p. 553.

Mode of payment.

4. Payment shall be made to the labourers from the public treasury, and, if the labourers shall have been employed upon a work belonging to a private person, the amount advanced from the treasury shall be recoverable from such person by the same means which may be lawfully used for the recovery of arrears of land revenue.

Recovery of advances from private persons.

Requisition for the supply of materials, etc., from villagers.

[1][**5.** It shall be lawful for heads of villages, on the requisition of the officer in charge of such works, as aforesaid or in his absence, on the requisition of the tahsildar or in case of emergency when neither such officer nor the tahsildár is on the spot, of their own motion, to make requisitions upon the inhabitants of their villages for the supply of materials to wit, earth, stone, trees and leaves, bamboos, straw, gunny bags and the like necessary for preventing or repairing breaches in the embankments of tanks, rivers and canals, and to remove or seize and, if necessary, to cut down such materials wherever they may be found, giving receipts for them in writing, such materials shall be paid for from the public treasury at the highest prices for which they are sold in the neighbourhood and in case damage is sustained by any person in consequence of the removal, seizure or cutting down of any such materials, compensation shall be made for such damage, the amount of which compensation shall, in case of dispute, be determined in the same manner as amounts payable under section 6. When the work for which such articles are used belongs to a private person, the amount advanced from the treasury shall be recoverable from him by the same means by which arrears of land revenue are recoverable.]

Liability of person refusing to contribute labour to work usually executed by village-community.

6. Whenever by local custom any work for the purpose of irrigation or drainage, or connected therewith is usually executed by the joint labour of a village community, any person bound by such custom to contribute labour to such work, who neglects or refuses without reasonable cause to comply with a requisition for such customary aid made to him by the head of the village under the orders of the tahsildár or other superior Revenue officer, shall be liable to pay a sum equal to twice the value of the labour which he is bound to contribute.

Mode of determining amount payable.

The amount so payable shall, in case of dispute, be determined summarily by a Village [2]* * Pancháyat assembled by order of the Collector through the Village [2]* * Munsif according to the rules for assembling such Pancháyats prescribed in Regulations V and VII of 1816 [3].

Recovery.

Such amount shall be payable on demand, and, on non payment, the same may be recovered by the same means by which arrears of land revenue are recoverable.

Appropriation.

All sums paid or recovered under this section shall be applicable to the expenses of any works for the purpose of irrigation or drainage executed for the benefit of the village communities to which the defaulters respectively belong.

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[1] Subs by the Madras Compulsory Labour (Amendment) Act, 1935 (Mad Act 9 of 1935).

[2] ... 919 (Mad Act

[1][THE STATE PRISONERS ACT, 1858.]

ACT NO. III OF 1858.

[23rd January, 1858.]

An Act to amend the Law relating to the arrest and detention of State Prisoners.

[2] * * * * * * *

1. [*Repeal of part of s. 1, clause first of Bombay Regulation XXV of 1827.*] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

2. [*Regulations as to arrest and confinement of State Prisoners in force within Presidency-towns.*] *Rep. by the A. O.*

Persons to whom warrants of commitments may be addressed and effect of warrants of commitment.

3. [3][The provisions of section one of the State Prisoners Act, 1850 (which relate to the persons to whom warrants of commitment under the Bengal State Prisoners Regulation, 1818, may be addressed, and the effect of such warrants) shall apply in relation to warrants of commitment under Regulation II, 1819, of the Madras Code, and Regulation XXV, 1827, of the Bombay Code, as they apply in relation to warrants of commitment issued under the Bengal State Prisoners Regulation, 1818, by virtue of the powers conferred thereby on Provincial Governments.]

XXXIV of 1850. Ben. Reg. III of 1818. Ben. Reg. III of 1818.

4. [*Arrests, etc., made before the passing of this Act legalized.*] *Rep. by the Amending Act, 1891 (XII of 1891).*

Removal of State prisoners from one Province to another Province.

5. [3][(i) A State prisoner who is or is to be confined in any Province under the provisions of any of the said Regulations for reasons connected with the maintenance of public order therein may, by arrangement between the Provincial Governments concerned, be transferred to or, as the case may be, retained in another Province and confined in that other Province in accordance with that one of the said Regulations which is in force in that other Province in all respects as if reasons connected with the maintenance of public order in that other Province required his confinement therein.

(2) Nothing in this section shall be construed as limiting the power of the Central Government to transfer State prisoners from one place of confinement in a Governor's Province or a Chief Commissioner's Province to another place of confinement in that or any other Province, or the power of a Provincial Government to transfer State prisoners from one place of confinement in the Province to another place of confinement in the Province.]

Extent.

[4][6. This Act extends to the whole of British India (including Berar).]

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[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

[2] Preamble rep. by the A. O.

[3] Subs. by the A. O. for the original section.

[4] Ins. by the A. O.

[1][THE BENGAL ALLUVIAL LAND SETTLEMENT ACT 1858]

Act No. XXXI of 1858

[*24th August, 1858*]

An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.

Preamble

Whereas for the removal of doubts respecting the course proper to be followed in the settlement of land added by alluvial accession to estates paying revenue to Government, it is expedient to lay down certain rules to be observed in the settlement of such land, It is enacted as follows —

Addition of revenue assessed upon alluvial land to *jama* of original estate

1. When land added by alluvial accession to an estate paying revenue to Government becomes liable to assessment, if it be so agreed on between the Revenue authorities and the proprietor or proprietors, the revenue assessed upon the alluvial land may be added to the *jama* of the original estate, and in such case a new engagement shall be executed for the payment of the aggregate amount, and that amount shall be substituted in the Collector's rent roll for the former *jama* of the original estate

When separate settlement to be made

If the proprietor or proprietors object to such an arrangement, or if the Revenue authorities are of opinion that a settlement of the alluvial land cannot properly be made for the same term as the existing settlement of the original estate the alluvial land shall be assessed and settled as a separate estate with a separate *jama*, and shall thenceforward be regarded and treated, as in all respects separate from and independent of the original estate, whether the separate settlement be made with the proprietor or proprietors or the land be let in farm in consequence of the refusal of the proprietor or proprietors to accept the terms of settlement

The separate settlement may be permanent if the settlement of the original estate is permanent

Rights of under tenants in alluvial land

2. Nothing contained in the preceding section shall affect the rights of any under tenant in any alluvial land under the provisions of clause 1, section 4, [2]Regulation 11, 1825

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to be

1872

(3 of 1872), s 3 (2)

It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874) s 3, to be in force in —

West Jalpaiguri in the Jalpaiguri District	*See* Gazette of India, 1881, Pt I, p 74	
The Districts of Hazaribagh, Ranchi, Palamau and Manbhum and Pargana Dhalbhum, and the Kolhan in the District of Singhbhum in the Chota Nagpur Division	Ditto	1881, Pt I, p 504

the Chittagong Hill

e Angul Laws Regula

It shall be the duty of all officers making settlements of such land, whether the land be settled separately or incorporated with the original estate, to ascertain and record all such rights according to the rules prescribed in [1]Regulation 7, 1822; and to determine whether any and what additional rent shall be payable in respect of the alluvial land by the person or persons entitled to any under-tenure in the original estate.

The provisions of the said [2]Regulation, so far as the same may be applicable, are hereby declared to extend to all settlements made under this Act.

3. [*Separate settlements heretofore made; saving of rights.*] *Rep. by the Amending Act, 1903 (1 of 1903).*

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[3][THE BENGAL GHATWALI LANDS ACT, 1859.]

ACT NO. V OF 1859.

[*4th March, 1859.*]

An Act to empower the holders of *Ghatwal* lands in the district of Birbhoom to grant leases extending beyond the period of their own possession.

Preamble.

WHEREAS it has been held that the *ghatwals* of the district of Birbhoom who pay the revenue of their lands directly to Government under the provisions of [4]Regulation 29, 1814, of the Bengal Code have not the power of alienating their lands;

And whereas, for the development of the mineral resources of the country in which the said *ghatwali* lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession should in certain cases be extended to the possessors of such lands:

It is enacted as follows:—

Right of *ghatwals* of Birbhoom to grant leases.

1. *Ghatwals* holding lands in the district of Birbhoom under the provisions of the aforesaid Regulation shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures as is allowed by law to the proprietors of other lands:

Proviso.

Provided that no lease of *ghatwali* lands for any period extending beyond the lifetime or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines or for the clearing of jungle, or for the erection of dwelling-houses or manufactories, or for tanks, canals and similar works, and shall be

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[1] The Bengal Land-revenue Settlement Regulation, 1822.
[2] The Bengal Alluvion and Diluvion Regulation, 1825.
[3] Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.
This Act was passed only for the district of Birbhoom—*see* the title and s. 1.
It has also been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (1) and Sch. as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3.
[4] The Bengal Ghatwali Lands Regulation, 1814.

approved by the Commissioner of the Division, such approval being certified by an endorsement on the lease under the signature of the Commissioner

2. If any of the said *ghatuali* lands be at any time under the superintendence of the Court of Wards, or otherwise subject to the direct control of the officers of [1][the Crown], it shall be lawful for the Court of Wards or the Commissioner to grant leases for any such purpose as aforesaid, and every lease so granted shall be valid and binding on all future possessors of the said lands, anything in the existing law to the contrary notwithstanding

Court of Wards and Revenue authorities have like power in certain cases

[2][THE FORFEITURE ACT, 1859]

ACT NO IX OF 1859

[*30th April, 1859*]

An Act to provide for the adjudication of claims to property seized as forfeited

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[1] Subs by the A O for "Govt"

[2] Short title given by the Indian Short Titles Act, 1897 (14 of 1897)

The object of the unrepealed parts of this Act is stated to be "to give validity to certain forfeitures or seizures of property which have been or are liable to be called in question on the ground of some irregularity of procedure or defect or informality in recording the conviction of the parties whose property has been forfeited or seized or of the absence of a formal adjudication of forfeiture as required by the Forfeiture Act, 1857 (25 of 1857)" (*Statement of Objects and Reasons, first paragraph*)

This Act has been declared to be in force in the whole of British India, except the Scheduled Districts by the Laws Local Extent Act, 1874 (15 of 1874), s 3, and in British Baluchistan,

1874 (14 of 1874) to the

		1876, Pt I p 606
The Tarái of the Province of Agra	Ditto	1876, Pt I, p 505

It has been declared, by notification under s 3 (*b*) of the same Act, not to be in force in the District of Lahaul *See* Gazette of India, 1886, Pt I, p 301

s Act 1874 (14

		p 672
		, p 74
The District of Hazaribágh	Ditto	1881, Pt I, p 507
The District of Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt I, p 44)	Ditto	1881, Pt I, p 508
The District of Manbhum	Ditto	1881, Pt I, p 509
Pargana Dhalbhum in the District of Singbhum	Ditto	1881, Pt I, p 510
The Scheduled portion of the Mirzápur District	Ditto	1879, Pt I, p 383
Jaunsar Báwar	Ditto	1879, Pt I, p 382
The Districts of Hazára, Peshávar, Kohát Bannu Dera Ismail Khán and Dera Gházi Khán [*Portions of the Districts of Hazára Bannu, Dera Ismail Khan and Dera Ghazi Khan and the Districts of Peshawar and Kohat now form the N W F P, see Gazette of India 1901, Pt I, p 857, and ibid, 1902, Pt I, p 575, but its application has been barred to that portion of the Hazara District known as Upper Tanawal by the Hazára (Upper Tanawal) Regulation, 1900 (2 of 1900)*]	Ditto	1886, Pt I, p 48.

ACT No. XII OF 1859[1].

[4th May, 1859.]

An Act to make better provision for the trial of pilots at the Presidency of Fort William in Bengal [2] for breach of duty.

Preamble.

WHEREAS it is expedient to amend the law for the trial of persons employed in the Pilot Service of Government at the Presidency of Fort William in Bengal[2], when accused of breach of duty, and to extend the same to persons licensed to act as pilots at the said Presidency[2]. It is enacted as follows :

1. [*Repeal of Acts XXIV of 1845 and I of 1851.*] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

Trial of pilots accused of breach of duty.

2. When any person employed in the Pilot Service of Government at the Presidency of Fort William in Bengal[2], or licensed to act as a pilot at the said Presidency[2], shall be accused of having committed any breach of duty while engaged in such service or acting under such license, and it shall appear to the [3][Port Officer] or to the [4][Central Government] that such person ought to be brought to trial for such breach of duty, such person shall be brought to trial upon a charge or charges framed by the said [3][Port Officer], or such other person as the [5][Central Government] shall direct, before a Court constituted under the provisions of this Act.

Appointment of Judge.

3. The [4][*Central Government*] *shall appoint a fit person to be Judge of the* said Court.

Appointment of prosecutor.

4. The [6][Central Government] shall appoint such person as [7][it] may think proper to conduct the proceedings before the Court as prosecutor on the part of Government.

Trial to be held before Judge and jury.

5. Every trial under this Act shall be held before the said judge and a jury composed of two merchants of Calcutta, a master of a merchant-ship lying in the Port of Calcutta, and a pilot of not less than twenty years' service.

Lists of merchants and pilots liable to serve on jury.

6. The Judge shall cause to be prepared and shall keep two separate lists, one containing the names of merchants, the other containing the names of pilots, liable to serve on such jury.

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[1] Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.
This Act applies to all persons employed in the Pilot Service at the Presidency (*i.e.*, at Calcutta) and borne on the rolls of the Government establishment, and to all persons licensed to act as pilots at the Presidency (*i.e.*, at Calcutta). *See* s. 23.

[2] *i.e.*, at Calcutta.

[3] Subs. for "Superintendent of Marine" by the Amending Act, 1903 (1 of 1903), Sch. II.

[4] Subs. by the A. O. for the words "G. G. in C." which had been subs. by the Bengal Pilot Service (Centralisation of Administration) Act, 1929 (11 of 1929), s. 2, for "Lieutenant-Governor of Bengal".

[5] Subs. by the A. O. for the words "G. G. in C." which had been subs. by Act 11 of 1929, s. 2, for "said Lieutenant-Governor".

[6] Subs. by the A. O. for the words "G. G. in C." which had been subs. by Act 11 of 1929, s. 2, as amended by the Repealing and Amending Act, 1930 (8 of 1930), s. 2 and Sch. I, for "Lieutenant-Governor".

[7] Subs. by the A. O. for "he".

The names in each list shall be arranged in alphabetical order, and the place of abode and quality or business of each person named shall be stated

Notice to prosecutor and accused of time and place for appointing jury

7. When the Judge shall be about to hold a trial under this Act, he shall give notice to the prosecutor and to the party accused of a time and place to be fixed by the Judge for appointing a jury to serve at such trial

Appointment of jury

8. At the time and place mentioned in the notice the Judge in the presence of the prosecutor and the person accused shall read over the names which first occur in each of the said lists of those merchants and pilots who he has reason to believe are present in Calcutta and capable of attending as jurors at the trial, and shall also propose the name of a master of a merchant ship lying in the Port of Calcutta whom he deems qualified to serve on such jury

If no objection be made and allowed, the persons so nominated shall be the jury to serve at the trial

If the prosecutor or the party accused shall object to any of the persons named as jurors, he shall assign the grounds of his objection, and such objection shall forthwith be decided by the Judge

If the objection be allowed, the Judge shall read from the said lists or propose (as the case may be) another name in the place of the one objected to, and the person so nominated shall serve on the jury, provided no objection to such person be made and allowed as aforesaid

Day of trial to be fixed and summons to issue to jurors

9. When a jury has been appointed under the last preceding section, the Judge shall fix a day for the trial and shall summon by writing under his hand the persons so appointed to sit as a jury

Penalty for non attendance

If any such person when duly summoned shall without such excuse as the Judge shall allow to be sufficient neglect or refuse to attend at the time appointed or to remain in attendance until the trial shall be completed, it shall be lawful for the said Judge to impose upon any such person a fine not exceeding two hundred rupees for every such default, and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the defaulter under a warrant to be issued for that purpose by the Judge

Such warrant may be transmitted by the Judge to any [1][Presidency Magistrate] for the town of Calcutta, and thereupon such Magistrate shall endorse the same and shall cause it to be executed in the same manner as if the warrant had been issued by such Magistrate

Trial how to proceed if any juror does not attend.

10 If for any cause any of the persons summoned to attend as jurors shall not be in attendance at the time fixed for the commencement of the trial the trial may with the consent of the prosecutor and the party accused be held before the judge and such jurors as shall be in attendance

If such consent be not given, the place of the absent juror shall be supplied by some other person selected by the Judge from the same profession or calling as the person originally summoned and who shall consent to serve,

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[1] Subs. by the Bengal Pilot Service (Centralisation of Administration) Act 1920 (II of 1920) s. 2 (2) for "Magistrate of Police

ACT NO. XII OF 1859[1].

[*4th May, 1859.*]

An Act to make better provision for the trial of pilots at the Presidency of Fort William in Bengal [2] for breach of duty.

Preamble.

WHEREAS it is expedient to amend the law for the trial of persons employed in the Pilot Service of Government at the Presidency of Fort William in Bengal[2], when accused of breach of duty, and to extend the same to persons licensed to act as pilots at the said Presidency[2]. It is enacted as follows :

1. [*Repeal of Acts XXIV of 1845 and I of 1851.*] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

Trial of pilots accused of breach of duty.

2. When any person employed in the Pilot Service of Government at the Presidency of Fort William in Bengal[2], or licensed to act as a pilot at the said Presidency[2], shall be accused of having committed any breach of duty while engaged in such service or acting under such license, and it shall appear to the [3][Port Officer] or to the [4][Central Government] that such person ought to be brought to trial for such breach of duty, such person shall be brought to trial upon a charge or charges framed by the said [3][Port Officer], or such other person as the [5][Central Government] shall direct, before a Court constituted under the provisions of this Act.

Appointment of Judge.

3. The [4][Central Government] shall appoint a fit person to be Judge of the said Court.

Appointment of prosecutor.

4. The [6][Central Government] shall appoint such person as [7][it] may think proper to conduct the proceedings before the Court as prosecutor on the part of Government.

Trial to be held before Judge and jury.

5. Every trial under this Act shall be held before the said judge and a jury composed of two merchants of Calcutta, a master of a merchant-ship lying in the Port of Calcutta, and a pilot of not less than twenty years' service.

Lists of merchants and pilots liable to serve on jury.

6. The Judge shall cause to be prepared and shall keep two separate lists, one containing the names of merchants, the other containing the names of pilots, liable to serve on such jury.

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[1] Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.
This Act applies to all persons employed in the Pilot Service at the Presidency (*i.e.*, at Calcutta) and borne on the rolls of the Government establishment, and to all persons licensed to act as pilots at the Presidency (*i.e.*, at Calcutta). *See* s. 23.

[2] *i.e.*, at Calcutta.

[3] Subs. for " Superintendent of Marine " by the Amending Act, 1903 (1 of 1903), Sch. II.

[4] Subs. by the A. O. for the words " G. G. in C." which had been subs. by the Bengal Pilot Service (Centralisation of Administration) Act, 1929 (11 of 1929), s. 2, for " Lieutenant-Governor of Bengal".

[5] Subs. by the A. O. for the words " G. G. in C." which had been subs. by Act 11 of 1929, s. 2, for " said Lieutenant-Governor".

[6] Subs. by the A. O. for the words " G. G. in C." which had been subs. by Act 11 of 1929, s. 2, as amended by the Repealing and Amending Act, 1930 (8 of 1930), s. 2 and Sch. I, for " Lieutenant-Governor".

[7] Subs. by the A. O. for " he".

The names in each list shall be arranged in alphabetical order, and the place of abode and quality or business of each person named shall be stated

7. When the Judge shall be about to hold a trial under this Act, he shall give notice to the prosecutor and to the party accused of a time and place to be fixed by the Judge for appointing a jury to serve at such trial

Notice to prosecutor and accused of time and place for appointing jury

8. At the time and place mentioned in the notice the Judge in the presence of the prosecutor and the person accused shall read over the names which first occur in each of the said lists of those merchants and pilots who he has reason to believe are present in Calcutta and capable of attending as jurors at the trial, and shall also propose the name of a master of a merchant ship lying in the Port of Calcutta whom he deems qualified to serve on such jury

Appointment of jury

If no objection be made and allowed the persons so nominated shall be the jury to serve at the trial

If the prosecutor or the party accused shall object to any of the persons named as jurors, he shall assign the grounds of his objection and such objection shall forthwith be decided by the Judge

If the objection be allowed, the Judge shall read from the said lists or propose (as the case may be) another name in the place of the one objected to, and the person so nominated shall serve on the jury, provided no objection to such person be made and allowed as aforesaid

9. When a jury has been appointed under the last preceding section the Judge shall fix a day for the trial and shall summon by writing under his hand the persons so appointed to sit as a jury

Day of trial to be fixed and summons to issue to jurors

If any such person when duly summoned shall without such excuse as the Judge shall allow to be sufficient neglect or refuse to attend at the time appointed or to remain in attendance until the trial shall be completed, it shall be lawful for the said Judge to impose upon any such person a fine not exceeding two hundred rupees for every such default and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the defaulter under a warrant to be issued for that purpose by the Judge

Penalty for non attendance

Such warrant may be transmitted by the Judge to any [1][Presidency Magistrate] for the town of Calcutta, and thereupon such Magistrate shall endorse the same and shall cause it to be executed in the same manner as if the warrant had been issued by such Magistrate

10. If for any cause any of the persons summoned to attend as jurors shall not be in attendance at the time fixed for the commencement of the trial the trial may with the consent of the prosecutor and the party accused be held before the judge and such jurors as shall be in attendance

Trial how to proceed if any juror does not attend.

If such consent be not given, the place of the absent juror shall be supplied by some other person selected by the Judge from the same profession or calling as the person originally summoned and who shall consent to serve,

[1] Subs by the Bengal Pilot Service (Centralisation of Administration) Act, 1929 (II of 1929) s. 2 (2) for "Magistrate of Police"

provided no objection to such person be made and allowed in manner aforesaid.

If the parties or either of them do not consent that the trial shall be held before the Judge and such jurors as may be in attendance and the place of the absent juror cannot be supplied by a person consenting to serve, the trial shall be postponed to another day and the Judge shall either re-summon the same jury or appoint and summon another jury in the manner hereinbefore provided.

Register of jurors who have served.

11. The Judge shall register in a book the names of all jurors mentioned in either of the said two lists who have attended and served on a trial held under this Act.

A juror who has served shall not be required again to serve and his name shall be excluded in reading over the jury-lists until all the persons named in the said lists who are present in Calcutta and capable of attending as jurors shall have served.

12. [*Jurors to be sworn.*] *Rep. by the Indian Oaths Act, 1873 (X of 1873).*

Judge may summon witnesses to attend at certain time and place.

Examination of witnesses about to leave Calcutta.

13. It shall be lawful for the Judge of the said Court, at the instance of the prosecutor or of the party accused, or of his own motion, by writing under his hand, to summon any person to attend as a witness at a time and place to be specified in the summons, for the purpose of being examined at any trial before the said Court; or if such person shall be about to depart from Calcutta so as to be unable to attend at such trial without serious inconvenience, then to be examined before the Judge of the said Court before the day fixed for the trial :

Provided always that due notice of the time and place of such examination shall be given to the accused party; provided also that such witness may nevertheless be examined at the trial if he shall be able to attend thereat in which case his previous examination may also be read at the trial.

Penalty for witnesses not attending or refusing to give evidence.

14. If any person who shall have been duly summoned to attend as a witness shall, without sufficient excuse, neglect or refuse to attend, or attending shall refuse to give evidence or to answer any question which may be lawfully put to him, such person shall forfeit and pay such fine, not exceeding five hundred rupees, as the Judge of the said Court shall order; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the person ordered to pay the same in the manner prescribed in section 9 of this Act.

Arrest.

15. [1][(*1*) Whenever the Judge of the said Court thinks it necessary for obtaining evidence that any person should be arrested, he may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject nevertheless, to any general or special instructions from the [2][Central Government]) to enter any vessel.

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[1] Ins. by the Calcutta Pilots (Amendment Act, 1883) (6 of 1883), s. 1; the original s. 15 relating to examination of witnesses on oath, affirmation or otherwise having been rep. by the Indian Oaths Act, 1873 (10 of 1873).

[2] Subs. by the A. O. for the words "G. G. in C." which had been subs. by the Bengal Pilot Service (Centralisation of Administration) Act, 1929 (11 of 1929), s. 2, for "L. G."

(2) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officer of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to affect the arrest, and every such officer or other person shall be deemed to be a
30. public servant within the meaning of the Indian Penal Code, section 186

(3) No person shall be detained under this section for more than forty-eight hours]

16. Upon the completion of the trial, the jurors shall give their verdict upon the charge, or, if there be more than one, upon each separate charge — Verdict of jurors

The verdict shall be according to the opinion of the majority of jurors If the jurors are equally divided, the Judge shall declare his opinion, and the verdict shall be according to the opinion of the Judge and the jurors with whom he concurs

17. If by such verdict the accused person is found guilty of the charge or of any one or more of the charges preferred against him, the Judge of the Court shall sentence him to be dismissed from the said Pilot service, or to have his license withdrawn, or shall award such other punishment, by loss of rank [1]* * *, or by change of a license from a higher to a lower grade, or suspension from employment for a specified period, as to the Judge shall appear fit — Sentence if accused found guilty

The [2][Central Government], [3]* * * * * * may prepare a schedule[4] of offences and punishments (such punishments being of the same nature as those hereinbefore mentioned) for the guidance of the said Court, and, if such schedule be prepared [5]* * * and the charge proved before the said Court is an offence specified in such schedule, the Judge of the said Court shall award such punishment as is prescribed for such offence in the said schedule, and no other — Preparation of schedule of offences and punishments.

If by such verdict as aforesaid the accused person is found not guilty of the charge or charges preferred against him, the Judge shall declare him acquitted of the same — Acquittal

18. The proceedings of the Court shall be sent by the Judge to the [6][Port Officer] for submission to the [3][Central Government], and no sentence of punishment pronounced by the Judge of the said Court shall be final until it has been approved of by the [7][Central Government] — No sentence final till approved by Government.

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[1] The words "or pay" rep by the Calcutta Pilots (Amendment) Act, 1920 (Ben Act 4 of 1920), s 2

[2] The words "with the sanction of the G G in C rep by the Decentralisation Act, 1914 (4 of 1914) s 2 and Sch

[3] Subs by the A O for the words G G in C" which had been subs. by the Bengal Pilot Service (Centralisation of Administration) Act, 1929 (11 of 1929), s 2, for "Lieutenant-Governor of Bengal"

[4] As to the Schedule prepared under this section, see the Bengal Local Statutory Rules and Orders 1912

[5] The words ' and sanctioned ' rep by the Decentralisation Act, 1914 (4 of 1914), s 2 and Sch

[6] Subs for 'Superintendent of Marine' by the Amending Act, 1903 (1 of 1903), Sch II

[7] Subs by the A O for the words ' G G in C" which had been subs by Act 11 of 1929, s 2, for "said Lieutenant Governor"

Government may remit sentence or mitigate punishment.

The [1][Central Government] may remit the whole or any part of such sentence, or may direct the substitution of any mitigated punishment in lieu of the punishment awarded by the said Court as [2][it] shall think fit.

If verdict of jurors be manifestly contrary to evidence or trial otherwise insufficient.

19. If it shall appear to the Judge of the said Court that the verdict of the jurors is *manifestly* contrary to the evidence, or that the trial is otherwise insufficient, the Judge, instead of passing sentence on the accused person or declaring him acquitted, as the case may be, may certify the same to the [3][Central Government] and the [1][Central Government] may either order a new trial before another jury or acquit the accused person, as [2][it] shall think fit.

Power to make rules.

20. It shall be lawful for the [3][Central Government] to make such [4]rules as [2][it] shall think proper, not inconsistent with the provisions of this Act, for conducting the proceedings and regulating the practice of the said Court.

Marine authorities or Government may pass orders upon charge of breach of duty where trial unnecessary.

21. Nothing contained in this Act shall be held to restrict the marine authorities or the Government from passing such orders as may be deemed proper upon any charge of breach of duty preferred against any person employed in the said Pilot-service, when it shall not be deemed necessary that such person should be brought to trial for such breach of duty under the provisions of this Act.

Withdrawal of license from licensed pilot.

22. If any person licensed to act as a pilot when duly charged with breach of duty as aforesaid shall refuse to submit himself to trial under the provisions of this Act, the license of such person shall be withdrawn, and he shall be incapable of being again licensed to act as a pilot at the said Presidency.[5]

Act applicable to persons in Pilot-service and to licensed pilots.

23. The provisions of this Act shall extend to all persons employed in the Pilot-service at the said Presidency[5] and borne on the rolls of the Government establishment, whether such persons received fixed salaries, or are remunerated by a portion of the pilotage charged on the vessels piloted by them, or in any other manner, and to all persons licensed to act as pilots at the said Presidency.[5]

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[6][THE MOPLAH OUTRAGES ACT, 1859.]
ACT NO. XX OF 1859.

[*31st August 1859.*]

An Act for the suppression of ourtages in the District of Malabar in the Presidency of Fort St. George.

Preamble.

WHEREAS in the district of Malabar in the Presidency of Fort St. George murderous outrages have been frequently committed by persons of the class

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[1] Subs. by the A. O. for the words "*G. G. in C.*" *which had been subs. by Act 11 of 1929,* s. 2, for "*said Lieutenant-Governor.*"

[2] Subs. by the A. O. for "he".

[3] Subs. by the A. O. for the words "G. G. in C." which had been subs. by the Bengal Pilot Service (Centralisation of Administration) Act, 1929 (11 of 1929), s. 2, for "*Lieutenant-Governor of Bengal.*"

[4] As to rules made under s. 20 *see* the Bengal Local Statutory Rules and Orders, 1912.

[5] *i.e.*, at *Calcutta.*

[6] Short title given by the Amending Act, 1901 (11 of 1901).

called [1]Mappillas, the offenders in such outrages intending therein to sacrifice their own lives, and the general law of the country is not adequate to suppress such outrages, It is enacted as follows —

1. [*Repeal of Acts XXIII of 1854 and V of 1856*] *Rep by the Repealing Act, 1870 (XIV of 1870)*

2. It shall be lawful for the [2][Provincial Government of Madras] whenever [3][it] shall see fit, by a proclamation published in the [4][Official Gazette] from time to time to declare the whole or any part or parts of the district of Malabar to be subject to the operation of all or any of the following provisions

Power to declare whole or part of Malabar under Act

3. Any Mappilla who murders or attempts to murder any person, or who takes part in any outrage directed by Mappillas against any persons wherein murder is committed or is attempted to be committed, or is likely to be committed and any person who shall procure or promote the commission of any such crime as aforesaid, or shall incite or encourage any other person or persons to commit the same, or who, after having committed, or having been accessory to, any such crime as aforesaid, shall forcibly resist any person or persons having lawful authority to apprehend him, or who shall join or assist or incite or encourage other persons to join or assist, in such resistance, shall, on conviction thereof, be liable not only to the punishment provided by law for the offence of which he may be convicted, but also to the forfeiture of all his property, of whatever kind, to Government by the sentence of the Court by which he is tried,

Forfeiture of property of Mappillas convicted of outrages,

and whenever any person shall be killed in the act of committing any such offence as aforesaid, or being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds it shall be competent to the Court, which would have had cognizance of the offence if the offender could have been brought to trial, to proceed, on the application of the Magistrate, to hold an inquest into the circumstances of the death of the offender, and on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government

of persons killed in committing outrages,

4. All immoveable property of the offender which shall be alienated after the passing of this Act and before the commission of any offence specified in section 3 shall be forfeited in the same manner as if no such alienation had been made, unless the same shall have been made more than twelve months before the commission of the offence

of immoveable property of offender

5. If any Mappilla shall be sentenced to death for any capital offence, punishable also with forfeiture of property under this Act, it shall be lawful for the Court, by which such offender is convicted, by its sentence to direct the body of such offender to be burned or buried within the precincts of the jail, as it shall see fit, and, in like manner, if any Mappilla shall be killed in the act of committing any such offence as aforesaid, or, having committed

Disposal of bodies of offending Mappillas.

[1] "Mappilla,' lit. the son (*pilla*) of his mother (*ma*), as sprung from the intercourse of foreign colonists who were persons unknown, with Malabar women,—Wilson

[2] Subs. by the A O for G in C. of Fort St George

[3] Subs. by the A. O for "he

[4] Subs. by the A O for Fort St George Gazette".

any such offence as aforesaid, shall be killed in resisting a lawful attempt to apprehend him, it shall be lawful for the Magistrate to cause the body of the person so killed to be burned or buried within the precincts of the jail, as the said Magistrate shall see fit.

Powers of Provincial Government as to confinement or trial.

6. The [1][Provincial Government] shall have, with respect to the confinement or trial of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in him by any law regarding the confinement or trial of persons charged with or suspected of State offences; and the provisions of any such law shall be applicable to all cases in which the [1][Provincial Government] shall proceed under the authority of this section.

Procedure of Magistrate in respect to suspected persons.

7. The Magistrate of the District may cause any Mappilla or other person against whom there are, in his judgment, grounds of proceeding under the last section, to be apprehended, and, after such inquiry as he may think necessary, may detain such Mappilla or other person, in safe custody until he shall have received the orders of the [1][Provincial Government] to whom in all such cases he shall report his proceedings without unnecessary delay.

Penalty for remaining or returning within forbidden limits.

8. If, with the previous consent of the [1][Provincial Government] any person against whom the [1][Provincial Government] shall think fit to proceed under section 6 shall undertake, in consideration of the suspension of such proceedings, to depart within a specified period from within the limits of the Continent of India or of any part thereof, and shall in breach of his said undertaking, and without the permission of the [1][Provincial Government] remain or return within such limits, he shall be liable to be punished with imprisonment with or without hard labour for a period which may extend to seven years, or with fine, or both.

Levy of compensation or fine.

9. Whenever any such outrage as is specified in section 3 of this Act, the same being punishable under this Act, shall, after such proclamation as aforesaid, have been committed by any Mappilla or Mappillas, it shall be lawful for the Magistrate, with the sanction of the [1][Provincial Government] to levy such sum of money as the [1][Provincial Government] shall authorize from all the Mappillas within the amsham[2] or the several amshams to which the perpetrator or perpetrators or any one of such perpetrators of such outrages shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage, and also within the amsham in which the outrage shall have been committed; and the said Magistrate shall assess the proportions in which the said sum shall be payable upon the several heads of families of Mappillas within such amsham or amshams, according to his judgment of their respective means; and the said Magistrate shall appropriate the sum so levied as follows, that is to say, in the first place, to the compensation of the parties aggrieved by such outrages, including therein compensation to the family of any person dying by any such outrage for the pecuniary loss occasioned or likely to be occasioned by such death; and, subject to such compensation, to the use of the Government.

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[1] Subs. by the A. O. for "G. in C."
[2] From Sanskrit *amsha* meaning "part" or "share".

10. Whenever any such outrage as is specified in section 3 of this Act, the same being punishable under this Act, shall have been committed by any Mappilla or Mappillas, it shall be lawful for the Magistrate to call upon the Mappilla inhabitants of the amsham or amshams to which the perpetrator or perpetrators or any one of such perpetrators of such outrage shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage, or wherein any such perpetrator shall, after the perpetration of any such outrage, be found, to deliver up such perpetrator or perpetrators, and, on the failure of such Mappilla inhabitants to comply with such call so made upon them by the Magistrate it shall be lawful for the Magistrate, with the sanction of the [1][Provincial Government] to levy from such Mappilla inhabitants such sum of money as the [1][Provincial Government] shall authorize as prescribed in the last preceding section of this Act, and all sums so levied shall be appropriated in the manner prescribed in that section — Penalty on Mappilla inhabitants of amsham refusing to deliver up

11. All fines and pecuniary liabilities incurred under this Act may be levied by a Magistrate under summary process in the same manner as the public revenue may be realized by a Collector, and no action shall lie in any Civil Court against the Magistrate in respect of any fine imposed or any assessment made under this Act or in respect of the levy of any portion of such fine from the person or persons upon whom the same shall have been assessed — Fines etc., how levied.

12 It shall be lawful for the [1][Provincial Government] by such proclamation as aforesaid, from time to time to withdraw from the operation of the provisions of this Act any part or parts of the said district which [2][it] may previously have declared to be subject thereto and in like manner, as occasion shall require, to subject the same part or parts again to the operation of such provisions, or of any of them. — Power to withdraw parts of Malabar from Act

13 [*Duration of Act*] *Rep by the Moplah Outrages Continuance Act, 1869 (Mad Act VII of 1869)*

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[3][THE MADRAS DISTRICT POLICE ACT, 1859]

ACT No XXIV OF 1859

[6th September, 1859]

An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St George

WHEREAS it is expedient to make the Police force throughout the Madras — Preamble

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[1] Subs by the A O for G in C
[2] Subs. by the A O for "he"
[3] Short title given by the Amending Act 1901 (11 of 1901)

Presidency a more efficient instrument[1] * * * * * for the prevention and detection of crime, and to re-organize the Police-force[2] * * * * It is enacted as follows :—

Interpretation. **1.** The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say),

"Magistrate." the word "Magistrate" shall include all persons, within their respective jurisdictions, exercising all or any of the powers of a Magistrate :

"Superior police." [3][the expression "superior police" shall mean the Inspector-General of Police, Deputy Inspectors-General of Police, District Superintendents of Police, Assistant Superintendents of Police and Deputy Superintendents of Police :

"Subordinate police." the expression "subordinate police" shall mean all police officers of and below the rank of an Inspector] :

[4][the word "Police" shall include all persons appointed under this Act] :

"General Police District." the expression "General Police District" shall embrace all districts to which the operation of this Act shall be extended :

"Property." the word "property" shall include any [5][moveable property], money or valuable security :

[6] * * * * *

"Person." the word "person" shall include company or corporation :

"Month." the word "month" shall mean calendar month :

"Cattle." the word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

This Act was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 4 and Sch. II, to be in force in the whole of the Madras Presidency except the Scheduled Districts. As to employment in the city of Madras of Police-officers appointed under this Act, *see* the Madras Police Act, 1888 (Mad. Act 3 of 1888), s. 16. The Madras District Police (Amendment) Act, 1865 (Mad. Act 5 of 1865), and ss. 3 and 4 of the Towns Nuisances Act, 1889 (Mad. Act 3 of 1889), are to be read with, and taken as part of this Act.

It has been extended under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), to the taluqs of Bhadrachalam and Rakapilli—*see* Fort St. George Gazette, 1879, Pt. I, p. 722, and Gazette of India, 1879, Pt. I, p. 630.

It has been declared under s. 3 (*a*) of the same Act to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see* Fort St. George Gazette, 1898, Pt. I, p. 666, and Gazette of India, 1898, Pt. I, p. 869 ; and in the Dutcharti and Guditeru Muthas of the Godavari Agency—*see* Fort St. George Gazette, 1930, Pt. I, p. 553.

The Act is in force in the Nugur taluk of East Godavari District by virtue of the Nugur, Albaka and Cherla Laws and *Cesses Regulation, 1909 (1 of 1909), s. 2 (1).*

As to power of the Central Government to create a special police district (notwithstanding anything in this Act) and to extend to every part thereof, the powers and jurisdiction of members of a police force belonging to any part of British India, *see* the Police Act, 1888 (3 of 1888).

[1] The words "at the disposal of the Magistrate" rep. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936).

[2] The words "and to improve the condition of the village-police" rep. by the Madras Hereditary Village-offices Act, 1895 (Mad. Act 3 of 1895), except as to the Scheduled Districts.

[3] Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 3, for the definition of "subordinate" which read : "the word 'subordinate' as applied to Police-functionaries, shall mean District Superintendents and their Assistants and Deputies".

[4] Subs. by the Madras Hereditary Village-offices Act, 1895 (Mad. Act 3 of 1895), for original definition.

[5] Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 3, for "chattel".

[6] The clauses relating to "Number" and "Gender" rep. by the Second Repealing and Amending Act, 1914 (17 of 1914).

2. [*Repeal and amendment of certain Acts*] *Rep by the Repealing Act, 1870* (*XIV of 1870*)

3. [*Jurisdiction of officers appointed under Mad Reg XI of 1816*] *Rep by the Repealing Act, 1870* (*XIV of 1870*)

Superintendence vested in Provincial Government

4. The Superintendence of the Police throughout the General Police District shall vest in, and be exercised by, the [1][Provincial Government], and, except as authorized by [2][it] under the provisions of this Act, no person, officer or Court shall be empowered to [3]* * * * supersede or control any police functionary, any Regulation, Act or usage to the contrary notwithstanding

Inspector General of Police, etc

5. The administration of the Police throughout the General Police District shall be vested in an officer to be styled the Inspector General of Police for the Presidency of Madras and in such [4][Superior Police Officers] as to the [1][Provincial Government] shall seem fit [5] * * * *

Powers of Police, etc

6. All powers not inconsistent with the provisions of this Act which up to the passing of this Act belonged by law to the existing Police authorities shall be vested in the Police authorities appointed under this Act Provided always that no Police functionary so appointed shall possess or exercise any judicial or revenue authority

Inspector General to be Justice of the Peace

His powers

District Superintendent may be Magistrate His powers

7. The Inspector General of Police shall be appointed a Justice of the Peace, he shall also have the full powers of a Magistrate throughout the General Police District, but shall exercise these powers subject to such orders as may from time to time be issued by the [1][Provincial Government] The [1][Provincial Government] may vest any District Superintendent of Police with all or any of the powers of a Magistrate within such limits as [6][it] may deem proper, but such Superintendent shall exercise the powers with which he shall be so invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate, and as far as may be necessary for the performance of the duties assigned to him by this Act

Constitution of force

8. The entire Police establishment of the Madras Presidency shall for the purposes of this Act be deemed to be one Police force and shall be formally enrolled, and shall consist of such number of officers and men, and shall be otherwise constituted in such manner, as shall be from time to time ordered by the [1][Provincial Government] [7]* * * [8][The pay and all other

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[1] Subs by the A O for G in C

[2] Subs by the A O for ' him

[3] The word appoint ' rep by the A O

The appointment of Police functionaries is now regulated by s 241 (1) (b) of the G of I Act, 1935 (26 Geo 5 Ch 2)

[4] Subs by the Madras District Police (Amendment) Act 1936 (Mad Act 21 of 1936), s 4, for subordinates

[5] The words ' and who shall receive such salary as the G G of India in C shall allow " rep by the Decentralization Act, 1914 (4 of 1914) and the words who shall from time to time be appointed by the G in C., and may be removed by the same authority rep by the A O

[6] Subs by the A O for "he'

[7] The words ' subject to the control of the G G of India in C ' rep by the A O The words subject to the control ' had been subs. by the Decentralization Act, 1914 (4 of 1914), for " with the sanction

[8] Ins by the A. O Cf s 213 of the G of I Act, 1935 (26 Geo 5, Ch 2).

conditions of service of officers of the Subordinate Police shall, subject to the provisions of this Act, be such as may be determined by the Provincial Government.]

Inspector-General to control force and make rules.

9. The Inspector-General may from time to time, subject to the approval of the [1][Provincial Government], frame such orders and regulations as he shall deem expedient, relative to the general government and distribution of the force, the places of residence, the classification, rank and particular service of the members thereof; their inspection; the description of arms, accoutrements and other necessaries to be furnished to them; to the collecting and communicating intelligence and information; and all such other orders and regulations relative to the said Police-force as the said Inspector-General shall, from time to time, deem expedient for preventing abuse or neglect, and for rendering such force efficient in the discharge of all its duties.

Dismissal, suspension, or reduction of officers of the Subordinate Police.

[2][**10.** Subject to such rules as the Provincial Government may, from time to time, make under this Act, the Inspector-General, Deputy-Inspectors-General and District Superintendents of Police may at any time dismiss, suspend or reduce to a lower post, or time scale, or to a lower stage in time scale, any officer of the Subordinate Police whom they shall think remiss or negligent in the discharge of his duty or otherwise unfit for the same and may order the recovery from the pay of any such Police-officer of the whole or part of any pecuniary loss caused to Government by his negligence or breach of orders.]

Police-officers to receive certificates of office.

11. Every person [3][appointed as an officer of the Subordinate Police] shall receive on his enrolment a certificate (A) under the seal of the Inspector-General, by virtue of which he shall be vested with the powers, functions and privileges of a Police-officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the Police-force, and shall thereupon be immediately surrendered to his superior officer, or other person empowered to receive it.

12. [*Police Superannuation Fund.*] *Rep. by the Repealing Act, 1874 (XVI of 1874).*

Additional Police-officers employed at cost of individuals.

13. It shall be lawful for the [4][Provincial Government] if [5][it] shall think fit, on the application of any person showing the necessity thereof, to [6][appoint] any additional number of Police-officers to keep the peace at any place within the General Police District, at the charge of the person making the application, but subject to the orders of the [7][Inspector-General][8][or Deputy Inspector-

[1] Subs. by the A. O. for "G. in C."

[2] Subs. by the A. O. for the original section as amended by the Madras District Police and Towns Nuisances Acts Amendment Act, 1909 (Mad. Act 3 of 1909), and the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936).

[3] Subs. by the A. O. for "so appointed".

[4] Subs. by the A. O. for "Inspector-General of Police [or any Deputy Inspector-General] or any District Superintendent". The bracketed words had been inserted by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 6.

[5] Subs. by the A. O. for "they".

[6] Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936) for "depute".

[7] Subs. by the A. O. for "said Inspector-General".

[8] Ins. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 6.

General] or District Superintendent and for such time as they shall think fit, provided always that it shall be lawful for the person on whose application such [1][appointment] shall have been made, on giving one month's notice in writing to the Inspector General [2][or Deputy Inspector General] or District Superintendent, to require that the officers so appointed shall be discontinued such person shall be relieved from the charge of such additional force from the expiration of such notice

14. Whenever any railway, canal or other public work shall be carried on, or be in operation, in any part of the country, and it shall appear to the Inspector General that the appointment of an additional Police force in such neighbourhood is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, it shall be lawful for the Inspector General, with the consent of the [3][Provincial Government], to direct the employment of such additional force, and to maintain the same so long as such necessity shall continue and to make orders from time to time upon the treasurer or other officer having the control or custody of the funds of any Company carrying on such works for the payment of the extra force so rendered necessary as aforesaid

Additional force in neighbourhood of railway and other works.

15. [4][All sums of money payable under the two last preceding sections] shall be recoverable by suit in any competent Court or by distress and sale of the goods of the defaulter under the warrant of a Magistrate

Payment for support of additional Police force

16. When it shall appear that any [5][unlawful assembly or riot or disturbance of the peace] has taken place or may be reasonably apprehended in any place, and that the ordinary officers appointed for preserving the peace are not sufficient for its preservation, and for the protection of the inhabitants, and the security of property in such place it shall be lawful for any Police-officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the public or village servants, or residents of the neighbourhood, as such Police officer may require to act as special Police officers for such time and in such manner as he shall deem necessary, and it shall be the duty of such Magistrate at once to comply with such applications

Special Police officers

17. Every special Police officer so appointed shall have the same powers, privileges and protection, and be liable to all such duties and penalties and be subordinate to the same authorities, as the ordinary officers of Police [6][He shall receive a certificate in such form as the [7][Provincial Government] may determine, under the signature of the Magistrate who appointed him]

Powers of special Police officers

[1] Subs by the Madras District Police (Amendment) Act 1936 (Mad. Act 21 of 1936), for "deputation".
[2] Ins by *ibid*, s 6
[3] Subs by the A O for G in C
[4] Subs by the A O for 'All moneys paid in respect of such additional force as is mentioned in the two last preceding sections shall be paid into a fund to be called The General Police Fund', and shall be applied to the maintenance of the Police force under such orders as the G in C may pass, and all sums of money payable under the c sections *See*, however, para 4 of the India and Burma (Transitory Provisions) Order, 1937, which has the effect o continuing the General Police Fund up to the 1st April, 1939
[5] Subs by the Madras District Police (Amendment) Act, 1936 (Mad Act 21 of 1936) for "tumult, riot or outrage".
[6] Ins. by *ibid*, s 8
[7] Subs. by the A. O for 'L. G"

Punishment for refusal to serve.

18. If any person, being appointed a special Police-officer as aforesaid, shall without sufficient excuse neglect or refuse to serve as such, or to obey such lawful order or direction as may be given him for the performance of his duties, he shall be liable upon conviction before a Magistrate to a fine not exceeding fifty rupees for such neglect, refusal or disobedience.

Police-officers not to resign without leave or notice; nor to take other employment.

19. No Police-officer shall be at liberty to resign his office, or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the District Superintendent; or unless he shall have given to his superior officer two months' notice in writing of his intention to do so. Nor shall any such Police-officer engage in any employment or office whatever, other than his duties under this Act, unless expressly permitted to do so in writing under the seal of the Inspector-General.

Unlawful assumption of Police functions, personation of Police, etc.

20. From and after the passing of this Act, every person not being, or having ceased to be, a duly enrolled Police-officer, who shall unlawfully assume any function or power belonging to the Police, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements, and appointments, and other necessaries which may have been supplied to him for the execution of his duty, or who shall have in his possession any distinctive article of the dress or appointment directed to be worn exclusively by the Police-force, without being able to account satisfactorily for his possession thereof, or who shall put on the dress of any Police-officer, or any dress designed to represent it, or to be taken for it, or who shall otherwise personate the character or act the part of any Police-officer for any purpose whatever, shall, in addition to any other punishment to which he may be liable for any offence committed under the assumed character, be liable on conviction before a Magistrate to a penalty not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or both.

Duties of Police-officers.

21. Every Police-officer shall, for all purposes in this Act contained, be considered to be always on duty and shall have the powers of a Police-officer in every part of the General Police District. It shall be his duty to use his best endeavours and ability to prevent all crimes, offences and public nuisances; to preserve the peace; to apprehend disorderly and suspicious characters; to detect and bring offenders to justice; to collect and communicate intelligence affecting the public peace; and promptly to obey and execute all orders and warrants lawfully issued to him.

22 to **43.** [*Offences for which Police-officers may arrest without warrant: procedure on arrest: rules regarding bail and recognizances: remands: power to enter drinking-shops, etc.: inspection of weights and measures: prohibition to receive complaints of petty offences: powers to inform and prosecute provisions regarding execution of warrants and service of summonses: Police-officers not to use threats or promises: obligation to render assistance to Police-officers.*] *Rep. by Act XVII of 1862.*

44. Every Police officer who shall be guilty of any violation of duty or [1][wilful breach or neglect of any rule or regulation or lawful order made by competent authority] or who shall cease to perform the duties of his office without leave, or without having given two months' notice as provided by this enactment, or engage without authority in any employment other than his Police duty, or who shall maliciously and without probable cause prefer any false, vexatious or frivolous charge or information against any individual, or who shall knowingly and wilfully and with evil intent exceed his powers, or shall be guilty of any wilful and culpable neglect of duty, in not bringing any person who shall be in his custody without a warrant before a Magistrate as hereinbefore provided, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable on conviction before a Magistrate to a penalty not exceeding three months' pay, or to imprisonment with or without hard labour not exceeding three months, or both

Penalties for neglect of duty, etc

45 Any Police officer who shall on any pretext, or under any circumstances, directly or indirectly collect or receive any fee gratuity, diet-money, allowance or recompense, other than he may be duly authorized by the Inspector General or other officer acting under his order to collect or receive shall, on conviction before a Magistrate, be liable to a penalty not exceeding six months' pay, or to imprisonment, with or without hard labour, not exceeding six months, or both

Penalty for receiving unauthorized fees etc

46. Any Police officer who shall directly or indirectly extort, exact, seek or obtain any bribe or unauthorized reward or consideration by any illegal threat or pretence, or for doing or omitting or delaying to do any act which it may be his duty to do or to cause to be done, or for withholding or delaying any information which he is bound to afford or to communicate, or who shall attempt to commit any of the offences abovesaid, or shall be guilty of cowardice, shall be liable, upon conviction before a Magistrate, to a fine not exceeding twelve months' pay, or to imprisonment with or without hard labour not exceeding twelve months, or both Provided always that nothing in the three last preceding sections shall be deemed to preclude the Magistrate from committing for trial any cases of this nature too serious for his cognizance

Penalty for extortion, etc

Committal by Magistrate of serious cases

47. If any person shall assault or resist any Police officer in the execution of his duty, or shall aid or incite any other person so to do, or shall maliciously and without probable cause prefer any false or frivolous charge against any Police officer, such person shall, on conviction of such offence before any Magistrate be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, not exceeding three months, or both

Penalty for offences against Police officer

48. [*Penalty for certain offences within limits of towns Power to arrest without warrant Slaughtering cattle, furious riding, etc*] *Rep by the Town Nuisances Act, 1889 (Mad Act III of 1889)*

49. [*Regulation of public processions, etc, and of carriages and persons at places of public resort Regulation of use of music in streets*] *Rep by Mad. Act V of 1896*

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[1] Subs by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936) s 9 for "wilful breach of any lawful orders and regulations not punishable under section 10 of this Act"

Enquiry into charges against certain Police-officers.

50. [1][Any charge against a Police-officer above the rank of a constable under this Act shall be enquired into and determined only by an officer exercising the powers of a Magistrate.]

Liability to prosecution for higher penalties.

51. Nothing contained in this Act shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Act, or to prevent any person from being liable under any other law, Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act : Provided always that no person shall be punished twice for the same offence.

Proviso.

Levy of fines.

52. All fines and penalties imposed, and all sums of money recoverable under the authority of this Act, may, in case of non-payment thereof, be levied by distress and sale of the [2][moveable property] of the offender by warrant of the Magistrate[3] * * * *

Limitation of action.

53. All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done, [4][either under the provisions of this Act, or under the provisions of any other law for the time being in force, conferring powers on the police], shall be commenced within three months after the act complained of shall have been committed and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the Superintendent or other superior officer of the district in which the act was committed, one month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action, brought by or on behalf of the defendant; and, though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have cost against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action.

Notice.

Recovery by plaintiff.

Costs.

Bar to action.

Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act.

Plea that act was done under warrant.

54. When any action, prosecution or proceeding shall be brought against any Police-officer for any act done by him in such capacity, it shall be lawful

[1] Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 10, for the original section which read : " In all cases of convictions under this Act, the Magistrate trying the case shall be restrained within the limits of his ordinary jurisdiction as to the amount of fine or imprisonment he may inflict : Provided always that such charges against Police-officers above the rank of a private shall only be adjudicated on by European functionaries, and that village-watchers alone shall be liable to conviction by heads of villages ".

[2] Subs. by *ibid*, s. 11, for " goods and chattels ".

[3] The words " in manner provided by Act II of 1839 " rep. by the Repealing Act, 1874 (16 of 1874).

[4] Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 12, for " under the provisions of this Act, or under the General Police-powers hereby given ".

for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate, and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by a Magistrate And the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate And no proof of the signature of such official shall be necessary, unless the Court shall see reason to doubt its being genuine

Decree for defendant Proof of signature

Provided always that any remedy which the party may have against the authority issuing such warrant shall remain entire

Saving of remedy against issuer of warrant

[1][54 A. (1) The [2][Provincial Government] may, by notification in the [3][Official Gazette], extend to any town all or any of the provisions of the Madras City Police Act, 1888, mentioned in the Schedule and may declare such extension to be subject to such modifications as they think fit

Power of Provincial Government to extend certain provisions of Act to any town

(2) The [2][Provincial Government] may, by notification in the [3][Official Gazette], cancel or modify any such notification as is referred to in sub section (1)]

55. This Act shall take effect in any and every such district as the [4][Provincial Government] shall appoint by notification published in the Official Gazette

Operation of Act

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[5]SCHEDULE

[*See section 54 A (1)*]

Definitions of "imprisonment" "Gaming", "Instruments of gaming", "common gaming house" and "conviction" in section 1, sections 23, 24, 26, 28, 33, 48, 50, 61, 63, 64, 65 and 66, clauses (iii), (iv) (v), (vi), (vii), (viii), (x), (xiii), (xiv), (xv), (xvi), (xvii), (xviii) and (xx) of section 71 and sections 73, 74, 75, 77, 78, 79 and 80

FORM A

(*See section 11*)

A B has been appointed a member of the Police force under Act XXIV of 1859, and is vested with the powers, functions and privileges of a Police-officer

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[1] Ins by the Madras District Police (Amendment) Act, 1936 (Mad Act 21 of 1936) s. 13
[2] Subs by the A O for L G
[3] Subs by the A. O for "Fort St George Gazette"
[4] Subs by the A O for "G in C.
[5] Ins by the Madras District Police (Amendment) Act, 1936 (Mad Act 21 of 1936) s 14
The original Schedule relating to the repeal and amendment of previous laws was rep by the Repealing Act, 1870 (14 of 1870)

[1][THE SOCIETIES REGISTRATION ACT, 1860.]

CONTENTS.

PREAMBLE.

SECTIONS.

ACT NO. XXI OF 1860.

[21st May, 1860.]

An Act for the Registration of Literary, Scientific and Charitable Societies.[2]

Preamble.

WHEREAS it is expedient that provision should be made for improving the legal condition of societies established for the promotion of literature,

[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).
[2] The Act (with the exception of the first four sections) is based on the Literary and Scientific Institutions Act, 1854 (17 & 18 Vict., c. 112), ss. 20 *et seq.*

science, or the fine arts, or for the diffusion of useful knowledge, [1][the diffusion of political education] or for charitable purposes ; It is enacted as follows :—

Societies formed by memorandum of association and registration.

1. Any seven or more persons associated for any literary, scientific or charitable purpose, or for any such purpose as is described in section 20 of this Act, may, by subscribing their names to a memorandum of association and filing the same with the Registrar of Joint-stock Companies [2]* * form themselves into a society under this Act

Memorandum of association.

2. The memorandum of association shall contain the following things (that is to say)—

the name of the society
the objects of the society
the names, addresses, and occupations of the governors, council, directors, committee or other governing body to whom, by the rules of the society, the management of its affairs is entrusted.

It has been declared to be in force in the whole of British India, except the Scheduled Districts, by s 3 of the Laws Local Extent Act, 1874 (15 of 1874)

It has been declared to be in force in British Baluchistan by s 3 of the Baluchistan Laws Regulation, 1913 (2 of 1913)

It has been declared, by notification under s 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely —

West Jalpáiguri	*See* Gazette of India,	1881, Pt I, p 74
The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt I, p 44), and Manbhum and Pargana Dhalbhum and the Kolhán in the District of Singbhum	Ditto	1881, Pt I, p 504
The Scheduled portion of the Mirzapur District . .	Ditto	1879, Pt I, p 383
Jaunsar Báwar	Ditto	1879, Pt I, p 302.
The Districts of Hazára, Peshawar, Kohát, Bannu, Dera Ismail Khán and Dera Gházi Khán [*Portions of the Districts of Hazára, Bannu, Dera Ismail Khan and Dera Gházi Khan and the Districts of Peshâwar* [illegible]	Ditto	1886, Pt I, p 48.
The Scheduled Districts in Ganjam and Vizagapatam . . .	Ditto	1898, Pt I, p. 870
The District of Sylhet .	Ditto	1879, Pt I, p 631.
The rest of Assam (except the North Lushái Hills) .	Ditto	1897, Pt I, p. 299

It has been extended, by notification under s 5 of the last mentioned Act, to the following Scheduled Districts, namely —

Sind	*See* Gazette of India,	1880, Pt I, p 672.
Kumaon and Garhwál . . .	Ditto	1876, Pt I, p 606
Ajmer and Merwára	Ditto	1878, Pt I, p 380

It has been declared, by notification under s 3 (*b*) of the same Act, not to be in force in the Scheduled District of Lahaul *See* Gazette of India, 1886, Pt I, p 301.

[1] These words were added by the Societies Registration (Amendment) Act, 1927 (22 of 1927)

[2] The words and figures "under Act 19 of 1857" rep by the Repealing Act, 1874 (16 of 1874) *See now* the Indian Companies Act, 1913 (7 of 1913), s 288.

A copy of the rules and regulations of the society, certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the memorandum of association.

Registration.

Fees.

3. Upon such memorandum and certified copy being filed, the registrar shall certify under his hand that the society is registered under this Act. There shall be paid to the registrar for every such registration a fee of fifty rupees, or such smaller fee as [1][the Provincial Government] may, from time to time, direct; and all fees so paid shall be accounted for to [2][the Provincial Government].

Annual list of managing body to be filed.

4. Once in every year, on or before the fourteenth day succeeding the day on which, *according to the rules of the society, the annual general meeting* of the society is held, or, if the rules do not provide for an annual general meeting, in the month of January, a list shall be filed with the Registrar of Joint-stock Companies of the names, addresses and occupations of the governors, council, directors, committee or other governing body then entrusted with the management of the affairs of the society.

Property of society how vested.

5. The property, moveable and immoveable, belonging to a society *registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such society, and in all proceed*ings, civil and criminal, may be described as the property of the governing body of such society by their proper title.

Suits by and against societies.

6. Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the society, and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion:

Provided that it shall be competent for any person having a claim or demand against the society, to sue the president or chairman, or principal secretary or the trustees thereof, if on application to the governing body some other officer or person be not nominated to be the defendant.

Suits not to abate.

7. No suit or proceeding in any Civil Court shall abate or discontinue *by reason of the person by* or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceedings shall be continued in the name of or against the successor of such person.

Enforcement of judgment against society.

8. If a judgment shall be recovered against the person or officer named on behalf of the society, such judgment shall not be put in force against the property, moveable or immoveable, or against the body of such person or officer, but against the property of the society.

The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the society only, and shall require to have the judgment enforced against the property of the society.

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1 Subs. by the A. O. for "the G. G. of India in C."
2 Subs. by the A. O. for "Govt."

9 Whenever by any bye law duly made in accordance with the rules and regulations of the society, or, if the rules do not provide for the making of bye laws, by any bye law made at a general meeting of the members of the society convened for the purpose (for the making of which the concurrent votes of three fifths of the members present at such meeting shall be necessary), any pecuniary penalty is imposed for the breach of any rule or bye law of the society, such penalty, when accrued may be recovered in any Court having jurisdiction where the defendant shall reside or the society shall be situate, as the governing body thereof shall deem expedient

Recovery of penalty accruing under bye law

10 Any member who may be in arrear of a subscription which according to the rules of the society he is bound to pay or who shall possess himself of or detain any property of the society in a manner or for a time contrary to such rules or shall injure or destroy any property of the society may be sued for such arrear or for the damage accruing from such detention injury or destruction of property in the manner hereinbefore provided

Members liable to be sued as strangers

But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the society, and shall be adjudged to recover his costs he may elect to proceed to recover the same from the officer in whose name the suit shall be brought or from the society and in the latter case shall have process against the property of the said society in the manner above described

Recovery *by successful* defendant of costs adjudged

11 Any member of the society who shall steal purloin or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such society, or shall forge any deed bond security for money, receipt, or other instrument, whereby the funds of the society may be exposed to loss, shall be subject to the same prosecution and if convicted, shall be liable to be punished in like manner as any person not a member would be subject and liable to in respect of the like offence

Members guilty of offences punishable as strangers

12 Whenever it shall appear to the governing body of any society registered under this Act, which has been established for any particular purpose or purposes that it is advisable to alter extend or abridge such purpose to or for other purposes within the meaning of this Act or to amalgamate such society either wholly or partially with any other society such governing body may submit the proposition to the members of the society in a written or printed report and may convene a special meeting for the consideration thereof according to the regulations of the society,

Societies enabled to alter extend or abridge their purposes

but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member of the society ten days previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three fifths of the members delivered in person or by proxy, and confirmed by the votes of three fifths of the members present at a second special meeting convened by the governing body at an interval of one month after the former meeting

Provision for dissolution of societies and adjustment of their affairs.

13. Any number not less than three-fifths of the members of any society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the society, its claims and liabilities, according to the rules of the said society applicable thereto, if any, and, if not, then as the governing body shall find expedient, provided that, in the event of any dispute arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of the society is situate; and the Court shall make such order in the matter as it shall deem requisite:

Assent required.

Provided that no society shall be dissolved unless three-fifths of the members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general meeting convened for the purpose:

Government consent.

Provided that [1][whenever any Government] is a member of, or a contributor to, or otherwise interested in, any society registered under this Act, such society shall not be dissolved [2][without the consent of the Government of the Province of registration].

Upon a dissolution no member to receive profit.

14. If upon the dissolution of any society registered under this Act there shall remain after the satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed among[3] the members of the said society or any of them, but shall be given to some other society, to be determined by the votes of not less than three-fifths of the members present personally or by proxy at the time of the dissolution, or, in default thereof, by such Court as aforesaid: Provided, however, that this clause shall not apply to any society which shall have been founded or established by the contributions of shareholders in the nature of a Joint-stock Company.

Clause not to apply to Joint-stock Companies.

Member defined.

15. For the purposes of this Act a member of a society shall be a person who, having been admitted therein according to the rules and regulations thereof, shall have paid a subscription or shall have signed the roll or list of members thereof, and shall not have resigned in accordance with such rules and regulations; but in all proceedings under this Act no person shall be entitled to vote or to be counted as a member whose subscription at the time shall have been in arrear for a period exceeding three months.

Disqualified members.

Governing body defined.

16. The governing body of the society shall be the governors, council, directors, committee, trustees or other body to whom by the rules and regulations of the society the management of its affairs is entrusted.

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[1] Subs. by the A. O. for "whenever the Govt."

[2] Subs. by the A. O. for "without the consent of Govt."

[3] As to Bombay, *see* Bombay Societies Registration (Amendment) Act, 1912 (Bom. Act 2 of 1912).

Registration of societies formed before Act

Assent required

17. Any company or society established for a literary scientific or charitable purpose and registered under [1]Act XLIII of 1850 or any such society established and constituted previously to the passing of this Act but not registered under the said [1]Act XLIII of 1850 may at any time hereafter be registered as a society under this Act, subject to the proviso that no such company or society shall be registered under this Act unless an assent to its being so registered has been given by three fifths of the members present personally, or by proxy, at some general meeting convened for that purpose by the governing body

In the case of a company or society registered under [1]Act XLIII of 1850, the directors shall be deemed to be such governing body

In the case of a society not so registered if no such body shall have been constituted on the establishment of the society it shall be competent for the members thereof, upon due notice to create for itself a governing body to act for the society thenceforth

Such societies to file memorandum etc, with Registrar of Joint stock Companies

18 In order to any such society as is mentioned in the last preceding section obtaining registry under this Act it shall be sufficient that the governing body file with the Registrar of Joint stock Companies[2]* * a memorandum showing the name of the society the objects of the society and the names, addresses and occupations of the governing body together with a copy of the rules and regulations of the society certified as provided in section 2, and a copy of the report of the proceedings of the general meeting at which the registration was resolved on

Inspection of documents

Certified copies

19. Any person may inspect all documents filed with the registrar under this Act on payment of a fee of one rupee for each inspection and any person may require a copy or extract of any document or any part of any document, to be certified by the registrar on payment of two annas for every hundred words of such copy or extract, and such certified copy shall be *prima facie* evidence of the matters therein contained in all legal proceedings whatever

To what societies Act applies

20. The following societies may be registered under this Act —

charitable societies, the military orphan funds or societies established at the several presidencies of India, societies established for the promotion of science literature, or the fine arts for instruction, the diffusion of useful knowledge [3][the diffusion of political education] the foundation or maintenance of libraries or reading rooms for general use among the members or open to the public or public museums and galleries of painting and other works of art, collections of natural history, mechanical and philosophical inventions instruments, or designs

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[1] Rep by the Indian Companies Act, 1866 (10 of 1866) s 219

[2] The words and figures under Act 19 of 1857, rep by the Repealing Act 1874 (16 of 1874) *See* now the Indian Companies Act, 1913 (7 of 1913) s 288

[3] Ins by the Societies Registration (Amendment) Act 1927 (22 of 1927)

[1][THE GOVERNMENT OFFICERS' INDEMNITY ACT, 1860.]

ACT NO. XXXIV OF 1860.

[*2nd August, 1860.*]

An Act to indemnify Officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances.

Preamble.

WHEREAS fines and penalties have been imposed and levied by officers of Government in respect of acts committed during the late disturbances; and whereas assessments and contributions have been made and collected for the reconstruction or repairs of public buildings destroyed or injured during the same period and for other purposes; and whereas it is expedient to indemnify all officers of Government and other persons acting under the authority of officers of Government from any penalties or proceedings to which they may have rendered themselves liable since the tenth day of May, 1857, in respect of the said fines, penalties, assessments and contributions, and of any other acts which may have been done by them, and which have been or shall be ratified by the executive Government, and to confirm and make valid the levy of the said fines, penalties, assessments and contributions, and the said acts; It is enacted as follows :—

Indemnity in respect of fines, penalties, etc., imposed since 10th May, 1857.

1. All fines, penalties, assessments and contributions imposed since the tenth day of May, 1857, in respect of the destruction or injury of Government or other property, or on any other account connected with the late disturbances, by any officer of Government, or by any person acting under the authority of an officer of Government, shall be deemed to have been duly imposed and levied if the same shall have been levied in pursuance of an order of Government, or shall have been or shall be ratified by the executive Government; and all officers of Government and all persons acting under their authority are hereby indemnified and discharged from liability in respect of any such fines, penalties, assessments and contributions, and levying the same; and no suit or proceeding shall be commenced or prosecuted in respect thereof:

Proviso.

Provided that nothing in this Act shall authorize the levy of any fine, penalty, assessment or contribution not already levied.

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[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

The Act has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

The Districts of Hazáribagh, Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44) and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	*See* Gazette of India,	1881, Pt. I, p. 504.
The Scheduled portion of the Mirzápur District	Ditto	1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the Tarái of the Province of Agra. *See* Gazette of India, 1876, Pt. I, p. 505.

2 All acts done since the tenth day of May, 1857, in connection with the late disturbances by officers of Government, or by persons acting under their authority or otherwise in pursuance of an order of Government or which shall have been or shall be ratified by the executive Government are hereby confirmed and made valid, and all such officers of Government and persons as aforesaid are hereby indemnified and discharged from liability in respect of such acts Indemnity for certain acts done since 10th May, 1857

THE INDIAN PENAL CODE

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[1]ACT NO XLV OF 1860.

[*6th October, 1860.*]

CHAPTER I

INTRODUCTION

WHEREAS it is expedient to provide a general Penal Code for British India; It is enacted as follows — Preamble

1. This Act shall be called the Indian Penal Code, and shall take effect[2] * * * *throughout* [3][*British India*] Title and extent of operation of the Code

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[1] The Indian Penal Code has been declared in force in—

Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872) s 2

Chittagong Hill tracts by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 and Sch

British Baluchistan by the British Baluchistan Laws Regulation 1913 (2 of 1913) s 3,

Panth Piploda by the Panth Piploda Laws Regulation, 1929 (1 of 1929) s 2 and Sch

Khondmals District by the Khondmals Laws Regulation 1936 (4 of 1936) s 3 and Sch and

Angul District by the Angul Laws Regulation 1936 (5 of 1936) s 3 and Sch

[illegible]

in fo [illegible]

Gaze [illegible]

Ranc [illegible]

and t [illegible]

It has been extended under s. 5 of the same Act to the Lushai Hills—*see* Gazette of India, 1898 Pt II p 345

[2] The words and figures "on and from the first day of May, 1861," rep by the Amending Act 1891 (12 of 1891)

[3] Subs. by the A O for the whole of the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria Chapter 106 entitled An Act for the better Government of India The words except the settlement of Prince of Wales Island Singapore and Malacca" occurring originally at the end of the section were rep by the Amending Act 1891 (12 of 1891)

(*Chapter I.—Introduction.*)

Punishment of offences committed within British India.

2. Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within [1][British India] [2] * * * *.

Punishment of offences committed beyond, but which by law may be tried within, British India.

3. Any person liable, by any [3][Indian Law], to be tried for an offence committed beyond [4][British India] shall be dealt with according to the provisions of this Code for any act committed beyond [1][British India] in the same manner as if such act had been committed within [1][British India].

Extension of Code to extra-territorial offences.

4. [5] The provisions of this Code apply also to any offence committed by—

(*1*) any Native Indian subject of Her Majesty in any place without and beyond British India ;

(*2*) any other British subject within the territories of any Native Prince or Chief in India ;

(*3*) any servant of the Queen, whether a British subject or not, within the territories of any Native Prince or Chief in India.

Explanation.—In this section the word "offence" includes every act committed outside British India which, if committed in British India, would be punishable under this Code.

Illustrations.

(*a*) A, a coolie, who is a Native Indian subject, commits a murder in Uganda. He can be tried and convicted of murder in any place in British India in which he may be found.

(*b*) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found.

(*c*) C, a foreigner who is in the service of the Punjab Government, commits a murder in Jhind. He can be tried and convicted of murder at any place in British India in which he may be found.

(*d*) D, a Britis subject living in Indore, instigates E to commit a murder in Bombay. D is guilty of abetting murder.

Certain laws ot to be ected by this Act.

5. Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the Statute 3 and 4 William IV, Chapter 85, or of any Act of Parliament passed after that Statute in anywise affecting the East India Company or [1][British India], or the inhabitants thereof ; or any of the provisions of any Act for punishing mutiny and desertion of officers [6][soldiers,

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1 Subs. by the A. O. for "the said territories".

2 The words and figures "on or after the said first day of May 1861," rep. by the Amending Act, 1891 (12 of 1891).

3 Subs. by the A. O. as amended by the Suppl. A. O. for "law passed by the G. G. of India in C.".

4 Subs. by *ibid* for "the limits of the said territories".

5 Subs. for the original s. 4 by the Indian Penal Code Amendment Act, 1898 (4 of 1898), s. 2.

6 Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "and soldiers".

[1][sailors] or airmen] in the service of Her Majesty [2]* * * *, or of any special or local law

CHAPTER II

GENERAL EXPLANATIONS

6. Throughout this Code every definition of an offence, every penal provision and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision or illustration — Definitions in the Code to be understood subject to exceptions.

Illustrations

[illegible] express that a

[illegible]

Z, and therefore [illegible]
an offence which is done by a person who is bound by law to do it

7. Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation — Sense of expression once explained

8. The pronoun "he" and its derivatives are used of any person, whether male or female — Gender

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number — Number.

10. The word "man" denotes a male human being of any age the word "woman" denotes a female human being of any age — "Man" "Woman"

11. The word "person" includes any Company or Association, or body of persons, whether incorporated or not — "Person"

12. The word "public" includes any class of the public or any community — "Public"

13. The word "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland — "Queen"

14. The words "servant of the Queen" denote all officers or servants continued, appointed or employed in India by or under the authority of [3][the Government of India Act, 1935 or by or under the authority of any Government in British India or of the Crown Representative] — "Servant of the Queen"

[1] Ins by s 2 and Sch of the Amending Act, 1934 (35 of 1934)
[2] The words "or of the East India Company or of any Act for the government of the East India Company", rep. by the Repealing Act, 1870 (14 of 1870)
[3] Subs. by the A O for "the said Statute 21 and 22 Victoria Chapter 106, entitled "An act for the better government of India" or by or under the authority of the G of I or any Govt.".

(*Chapter II.—General Explanations.*)

15. [*Definition of "British India".*] *Rep. by the A. O.*

16. [*Definition of "Government of India".*] *Rep. by the A. O.*

"Government."

17. The word "Government" denotes the person or persons authorized by law to administer executive Government in any part of British India.

18. [*Definition of "Presidency".*] *Rep. by the A. O.*

"Judge."

19. The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person

who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations.

(*a*) A Collector exercising jurisdiction in a suit under Act X of 1859 is a Judge.

(*b*) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment with or without appeal, is a Judge.

(*c*) A member of a panchayat which has power, under [1]Regulation VII, 1816, of the Madras Code, to try and determine suits, is a Judge.

(*d*) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

"Court of Justice."

20. The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

Illustration.

A panchayat acting under [2]Regulation VII, 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

"Public servant."

21. The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely :—

First.—Every Covenanted servant of the Queen;

Second.—Every Commissioned Officer in the Military [3][Naval or Air] Forces of the Queen while serving under [4][any Government in British India or the Crown Representative];

Third.—Every Judge;

Fourth.—Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court; and every person specially authorized by a Court of Justice to perform any of such duties;

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[1] Rep. by the Madras Civil Courts Act, 1873 (3 of 1873).

[2] Madras Regulation 7 of 1816 has been rep. by the Madras Civil Courts Act, 1873 (3 of 1873).

[3] Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "or Naval".

[4] Subs. by the A. O. for "the G. of I. or any Govt.".

Fifth.—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth.—Every officer of [1][the Crown] whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of [1][the Crown], or to make any survey, assessment or contract on behalf of [1][the Crown] or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of [1][the Crown], or to make, authenticate or keep any document relating to the pecuniary interests of [1][the Crown], or to prevent the infraction of any law for the protection of the pecuniary interests of [1][the Crown], and every officer in the service or pay of [1][the Crown] or remunerated by fees or commission for the performance of any public duty;

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;

[2][*Eleventh.*—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.]

Illustration.

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

[2][*Explanation 3.*—The word "election" denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.]

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[1] Subs. by the A. O. for "Govt."
[2] Ins. by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 2.

(*Chapter II.—General Explanations.*)

"Moveable property."

22. The words "moveable property" are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

"Wrongful gain."

23. "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled.

"Wrongful loss."

"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

Gaining wrongfully. Losing wrongfully.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

"Dishonestly."

24. Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing "dishonestly".

"Fraudulently."

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

"Reason to believe."

26. A person is said to have "reason to believe" a thing if he has sufficient cause to believe that thing but not otherwise.

Property in possession of wife, clerk or servant.

27. When property is in the possession of a person's wife, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Code.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk, or servant, is a clerk or servant within the meaning of this section.

"Counterfeit."

28. A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

[1][*Explanation 1.*—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.]

"Document."

29. The word "document" denotes any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation 1.—It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

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[1] Subs. by the Metal Tokens Act, 1889 (1 of 1889), s. 9, for the original Explanations.

Illustrations

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document

A cheque upon a banker is a document

A Power of Attorney is a document

A map or plan which is intended to be used or which may be used as evidence, is a document

A writing containing directions or instructions is a document

Explanation 2—Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed

Illustration

A writes his name on the back of a bill of exchange payable to his order The meaning of the endorsement, as explained by mercantile usage is that the bill is to be paid to the holder The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder" or words to that effect had been written over the signature

30. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right "Valuable security"

Illustration

A writes his name on the back of a bill of exchange As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it the endorsement is a valuable security

31 The words "a will" denote any testamentary document "A will"

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions Words referring to acts include illegal omissions

33. The word "act" denotes as well a series of acts as a single act the word "omission" denotes as well a series of omissions as a single omission "Act" "Omission"

[1][**34.** When a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone] Acts done by several persons in furtherance of common intention

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention When such an act is criminal by reason of its being done with a criminal knowledge or intention

36. Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that Effect caused partly by act and partly by omission.

[1] Subs by s 1 of the Indian Penal Code Amendment Act 1870 (27 of 1870) for original section.

the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

Co-operation by doing one of several acts constituting an offence.

37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations.

(*a*) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(*b*) A and B are joint jailors, and as such, have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(*c*) A, a jailor, has the charge of Z, a prisoner. A intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but, as A did not co-operate with B, A is guilty only of an attempt to commit murder.

Persons concerned in criminal act may be guilty of different offences.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration.

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B having ill-will towards Z and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

"Voluntarily."

39. A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration.

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating robbery and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act: yet, if he knew that he was likely to cause death, he has caused death voluntarily.

"Offence."

[1][40. Except in the [chapters][2] and sections mentioned in clauses 2 and 3 of this section, the word "offence" denotes a thing made punishable by this Code.]

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[1] Subs. by s. 2 of the Indian Penal Code Amendment Act, 1870 (27 of 1870) for original s. 40.

[2] Subs. by s. 2 and Sch. I of the Repealing and Amending Act, 1930 (8 of 1930) for "chapt ".

In Chapter IV, [1][Chapter VA] and in the following sections, namely, sections, [2]64, [2]65, [2]66, [3]67, [2]71, 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word "offence" denotes a thing punishable under this Code, or under any special or local law as hereinafter defined

And in sections 141, 176, 177, 201, 202, 212, 216 and 441 the word "offence" has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine

41. A "special law" is a law applicable to a particular subject "Special law"

42. A "local law" is a law applicable only to a particular part of British India "Local law"

43. The word "illegal" is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action and a person is said to be "legally bound to do" whatever it is illegal in him to omit "Illegal" "Legally bound to do"

44. The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation or property "Injury"

45. The word "life" denotes the life of a human being, unless the contrary appears from the context "Life"

46 The word "death" denotes the death of a human being, unless the contrary appears from the context "Death"

47. The word "animal" denotes any living creature, other than a human being "Animal"

48 The word "vessel" denotes anything made for the conveyance by water of human beings or of property "Vessel."

49. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British calendar "Year" "Month"

50. The word "section" denotes one of those portions of a chapter of this Code which are distinguished by prefixed numeral figures "Section."

51. The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not "Oath."

52. Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention "Good faith."

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[1] Ins. by s. 2 of the Indian Criminal Law Amendment Act, 1913 (8 of 1913)
[2] Ins. by s. 1 of the Indian Penal Code Amendment Act, 1882 (8 of 1882)
[3] Ins. by s. 21 (1) of the Indian Criminal Law Amendment Act, 1886 (10 of 1886)

CHAPTER III.

OF PUNISHMENTS.

Punishments.

53. The punishments to which offenders are liable under the provisions of this Code are,—

First,—Death ;

Secondly,—Transportation ;

Thirdly,—Penal servitude ;

Fourthly,—Imprisonment, which is of two descriptions, namely :—

(1) Rigorous, that is, with hard labour ;

(2) Simple ;

Fifthly,—Forfeiture of property ;

Sixthly,—Fine.

Commutation of sentence of death.

54. In every case in which sentence of death shall have been passed, [1][the Central Government or the Provincial Government of the Province] within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

Commutation of sentence of transportation for life.

55. In every case in which sentence of transportation for life shall have been passed, [1][the Provincial Government of the Province] within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

Saving for Royal prerogative.

[2][**55A.** Nothing in section fifty-four or section fifty-five shall derogate from the right of His Majesty, or of the Governor-General if any such right is delegated to him by His Majesty, to grant pardons, reprieves, respites or remissions of punishment.]

Sentence of Europeans and Americans to penal servitude.

56. Whenever any person being an European or American is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude instead of transportation according to the provisions of [3]Act XXIV of 1855 :

Proviso as to sentence for term exceeding ten years but not for life.

[4][Provided that, where an European or American offender would, but for such Act, be liable to be sentenced or ordered to be transported for a term exceeding ten years, but not for life, he shall be liable to be sentenced or ordered to be kept in penal servitude for such term exceeding six years as to the Court seems fit, but not for life.]

Fractions of terms of punishment.

57. In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years.

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[1] Subs. by the A. O. for " the G. of I. or the Govt. of the place ".
[2] Ins. by *ibid.* Cf. s. 295 of the G. of I. Act, 1935. (26 Geo. 5. ch. 2.)
[3] *The Penal Servitude Act*, 1855.
[4] Ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 3.

(*Chapter III.—Of Punishments.*)

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment. Offenders sentenced to transportation how dealt with until transported.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment. Transportation instead of imprisonment.

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple. Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.

61. [*Sentence of forfeiture of property.*] *Rep. by the Indian Penal Code (Amendment) Act, 1921 (XVI of 1921), s. 4.*

62. [*Forfeiture of property, in respect of offenders punishable with death, transportation or imprisonment.*] *Rep. by the Indian Penal Code (Amendment) Act, 1921 (XVI of 1921), s. 4.*

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive. Amount of fine.

64. [1][In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, Sentence of imprisonment for non-payment of fine.

and in every case of an offence punishable [2][with imprisonment or fine, or] with fine only, in which the offender is sentenced to a fine,]

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine. Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence. Description of imprisonment for non-payment of fine.

[1] Subs. by s. 2 of the Indian Penal Code Amendment Act, 1882 (8 of 1882), for "In every case in which an offender is sentenced to a fine."

[2] Ins. by the Indian Criminal Law Amendment Act, 1886 (10 of 1886), s. 21 (2).

CHAPTER III.

OF PUNISHMENTS.

Punishments.

53. The punishments to which offenders are liable under the provisions of this Code are,—

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Secondly,—Transportation ;

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Fourthly,—Imprisonment, which is of two descriptions, namely :—

(1) Rigorous, that is, with hard labour ;

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Fifthly,—Forfeiture of property ;

Sixthly,—Fine.

Commutation of sentence of death.

54. In every case in which sentence of death shall have been passed, [1][the Central Government or the Provincial Government of the Province] within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

Commutation of sentence of transportation for life.

55. In every case in which sentence of transportation for life shall have been passed, [1][the Provincial Government of the Province] within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

Saving for Royal prerogative.

[2][**55A.** Nothing in section fifty-four or section fifty-five shall derogate from the right of His Majesty, or of the Governor-General if any such right is delegated to him by His Majesty, to grant pardons, reprieves, respites or remissions of punishment.]

Sentence of Europeans and Americans to penal servitude.

56. Whenever any person being an European or American is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude instead of transportation according to the provisions of [3]Act XXIV of 1855 :

Proviso as to sentence for term exceeding ten years but not for life.

[4][Provided that, where an European or American offender would, but for such Act, be liable to be sentenced or ordered to be transported for a term exceeding ten years, but not for life, he shall be liable to be sentenced or ordered to be kept in penal servitude for such term exceeding six years as to the Court seems fit, but not for life.]

Fractions of terms of punishment.

57. In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years.

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[1] Subs. by the A. O. for " the G. of I. or the Govt. of the place ".
[2] Ins. by *ibid*. Cf. s. 295 of the G. of I. Act, 1935. (26 Geo. 5. ch. 2.)
[3] The Penal Servitude Act, 1855.
[4] Ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 3.

58. In every case in which a sentence of transportation is passed the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment

Offenders sentenced to transportation how dealt with until transported

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment

Transportation instead of imprisonment

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple

Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple

61. [*Sentence of forfeiture of property*] *Rep by the Indian Penal Code Amendment) Act, 1921 (XVI of 1921), s 4*

62. [*Forfeiture of property, in respect of offenders punishable with death, transportation or imprisonment*] *Rep by the Indian Penal Code (Amendment) Act, 1921 (XVI of 1921), s 4.*

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive

Amount of fine

64. [1][In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

and in every case of an offence punishable [2][with imprisonment or fine, or] with fine only, in which the offender is sentenced to a fine,]

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence

Sentence of imprisonment for non payment of fine

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine

Limit to imprisonment for non payment of fine, when imprisonment and fine awardable.

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence

Description of imprisonment for non payment of fine.

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[1] Subs. by s 2 of the Indian Penal Code Amendment Act, 1882 (8 of 1882), for "in every case in which an offender is sentenced to a fine"

[2] Ins by the Indian Criminal Law Amendment Act, 1886 (10 of 1886), s 21 (2)

(*Chapter III.—Of Punishments.*)

Imprisonment for non-payment of fine, when offence punishable with fine only.

67. If the offence be punishable with fine only, [1][the imprisonment which the Court imposes in default of payment of the fine shall be simple, and] the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.

Imprisonment to terminate on payment of fine.

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Termination of imprisonment on payment of proportional part of fine.

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration.

A is sentenced to a fine of one hundred rupees and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonments, A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

Fine leviable within six years, or during imprisonment.

Death not to discharge property from liability.

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

Limit of punishment of offence made up of several offences.

71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

[2][Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.]

[1] Ins. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 3.
[2] Ins. by the Indian Penal Code Amendment Act, 1882 (2 of 1882), s. 4.

Illustrations

72. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all. Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.

73. Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say— Solitary confinement.

a time not exceeding one month if the term of imprisonment shall not exceed six months;

a time not exceeding two months if the term of imprisonment shall exceed six months and [1][shall not exceed one] year;

a time not exceeding three months if the term of imprisonment shall exceed one year.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods. Limit of solitary confinement.

75. [2][Whoever, having been convicted,— Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction.

(a) by a Court in British India of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, or

(b) by a Court or tribunal [3][in any Indian State acting under the general or special authority of the Central Government or of the Crown Representative] of an offence which would, if committed in British India, have been punishable under those Chapters of this Code with like imprisonment for the like term,

[1] Subs. by s. 5 of the Indian Penal Code Amendment Act, 1882 (8 of 1882), for "be less than a".

[2] Subs. by the Indian Penal Code Amendment Act, 1910 (3 of 1910), for the original section.

[3] Subs. by the A. O. for "in the territories of any Native Prince or State in India acting under the general or special authority of the G. G. in C. or of any L. G."

(*Chapter III.—Of Punishments.*)

Imprisonment for non-payment of fine, when offence punishable with fine only.

67. If the offence be punishable with fine only, [1][the imprisonment which the Court imposes in default of payment of the fine shall be simple, and] the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.

Imprisonment to terminate on payment of fine.

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Termination of imprisonment on payment of proportional part of fine.

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration.

A is sentenced to a fine of one hundred rupees and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonments, A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

Fine leviable within six years, or during imprisonment. Death not to discharge property from liability.

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

Limit of punishment of offence made up of several offences.

71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

[2][Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.]

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[1] Ins. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 3.
[2] Ins. by the Indian Penal Code Amendment Act, 1882 (2 of 1882), s. 4.

(*Chapter III.—Of Punishments.*)

Illustrations

(*a*) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(*b*) [illegible]
given to [illegible]
ment for [illegible]

72. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.

73. Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say:—

Solitary confinement.

a time not exceeding one month if the term of imprisonment shall not exceed six months;

a time not exceeding two months if the term of imprisonment shall exceed six months and [1][shall not exceed one] year;

a time not exceeding three months if the term of imprisonment shall exceed one year.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Limit of solitary confinement.

75. [2][Whoever, having been convicted,—

Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction.

(*a*) by a Court in British India, of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, or

(*b*) by a Court or tribunal [3][in any Indian State acting under the general or special authority of the Central Government or of the Crown Representative], of an offence which would, if committed in British India, have been punishable under those Chapters of this Code with like imprisonment for the like term,

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[1] Subs. by s. 5 of the Indian Penal Code Amendment Act, 1882 (8 of 1882), for "be less than a".

[2] Subs. by the Indian Penal Code Amendment Act, 1910 (3 of 1910), for the original section.

[3] Subs. by the A. O. for "in the territories of any Native Prince or State in India acting under the general or special authority of the G. G. in C. or of any L. G."

shall be guilty of any offence punishable under either of those Chapters with life imprisonment for the like term, shall be subject for every such subsequent offence to transportation for life, or to imprisonment of either description for a term which may extend to ten years.]

CHAPTER IV.

GENERAL EXCEPTIONS.

Act done by a person bound, or by mistake of fact believing himself bound, by law.

76. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Illustrations.

(*a*) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(*b*) A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

Act of Judge when acting judicially.

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act done pursuant to the judgment or order of Court.

78. Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done by a person justified, or by mistake of fact believing himself justified, by law.

79. Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

Illustration.

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment, exerted in good faith of the power which the law gives to all persons of apprehending murderers in the act, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

Accident in doing a lawful act.

80. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Illustration.

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

Act likely to cause harm, but done without criminal intent, and to prevent other harm.

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations

any fault or negligence on his
his vessel he must inevitably
unless he changes the course
of his vessel and that by changing his course he must incur risk of running down a boat C

(b) A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act A is not guilty of the offence.

Act of a child under seven years of age.

82. Nothing is an offence which is done by a child under seven years of age.

Act of a child above seven and under twelve of immature understanding.

83. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Act of a person of unsound mind.

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

Act of a person incapable of judgment by reason of intoxication caused against his will.

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law: provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent or knowledge committed by one who is intoxicated.

86. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Act not intended and not known to be

87. Nothing which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death, or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by

likely to cause death or grievous hurt, done by consent.

the doer to cause, to any person, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration.

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

Act not intended to cause death, done by consent in good faith for person's benefit.

88. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration.

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under the painful complaint, but not intending to cause Z's death, and intending, in good faith Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

Act done in good faith for benefit of child or insane person, by or by consent of guardian.

89. Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person: Provided—

Provisos.

First.—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt; or the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration.

A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

Consent known to be given

90. A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to

believe, that the consent was given in consequence of such fear or misconception or

Under fear or misconception.

if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent, or

Consent of insane person.

unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age

Consent of child.

Exclusion of acts which are offences independently of harm caused.

91. The exceptions in sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given

Illustration

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman Therefore, it is not an offence " by reason of such harm ", and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act

Act done in good faith for benefit of a person without consent.

92. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit Provided—

Provisos.

First.—That this exception shall not extend to the intentional causing of death, or the attempting to cause death,

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity,

Thirdly.—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt,

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend

Illustrations

(a) Z is thrown from his horse, and is insensible A, a surgeon, finds that Z requires to be trepanned A not intending Z's death but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself A has committed no offence

(b) Z is carried off by a tiger A fires at the tiger knowing it to be likely that the shot may kill Z but not intending to kill Z, and in good faith intending Z's benefit A's ball gives Z a mortal wound A has committed no offence

[illegible] has committed no offence

(d) A is in a house which is on fire, with Z a child People below hold out a blanket [illegible] t the fall may kill the child, [illegible], the child's benefit Here [illegible]

Explanation.—Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92.

Communication made in good faith.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

Act to which a person is compelled by threats.

94. Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced by threat of instant death, to do a thing which is an offence by law; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

Act causing slight harm.

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Of the Right of Private Defence.

Things done in private defence.

96. Nothing is an offence which is done in the exercise of the right of private defence.

Right of private defence of the body and of property.

97. Every person has a right, subject to the restrictions contained in section 99, to defend—

First.—His own body, and the body of any other person, against any offence affecting the human body;

Secondly.—The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

Right of private defence

98. When an act, which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the

unsoundness of mind or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence

against the act of a person of unsound mind, etc

Illustrations

(a) Z, under the influence of madness attempts to kill A, Z is guilty of no offence But A has the same right of private defence which he would have if Z were sane

[illegible] Z in good faith, taking [illegible] misconception commits [illegible] which he would have if [illegible]

99. There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law

Acts against which there is no right of private defence

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly justifiable by law

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities

The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence

Extent to which the right may be exercised

Explanation 1 —A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant

Explanation 2 —A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely —

When the right of private defence of the body extends to causing death

First —Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault,

Secondly —Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault,

Thirdly —An assault with the intention of committing rape,

Fourthly.—An assault with the intention of gratifying unnatural lust;

Fifthly.—An assault with the intention of kidnapping or abducting;

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

When such right extends to causing any harm other than death.

101. If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99 to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of the right of private defence of the body.

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

When the right of private defence of property extends to causing death.

103. The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely :—

First.—Robbery;

Secondly.—House-breaking by night;

Thirdly.—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property;

Fourthly.—Theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

When such right extends to causing any harm other than death.

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

·mmencement and continuance of the right of private defence of property.

105. The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

Right of private defence against deadly assault when there is risk of harm to innocent person.

106. If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

CHAPTER V.

OF ABETMENT.

Abetment of a thing.

107. A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or,

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor.

108. A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

(*Chapter IV.—General Exceptions.*)

Fourthly.—An assault with the intention of gratifying unnatural lust;

Fifthly.—An assault with the intention of kidnapping or abducting;

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

When such right extends to causing any harm other than death.

101. If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99 to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of the right of private defence of the body.

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

When the right of private defence of property extends to causing death.

103. The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely :—

First.—Robbery;

Secondly.—House-breaking by night;

Thirdly.—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property;

Fourthly.—Theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

When such right extends to causing any harm other than death.

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

Commencement and continuance of the right of private defence of property.

105. The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house breaking by night continues as long as the house trespass which has been begun by such house breaking continues.

Right of private defence against deadly assault when there is risk of harm to innocent person.

106. If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

CHAPTER V.

OF ABETMENT.

Abetment of a thing.

107. A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or,

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor.

108. A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(*a*) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(*b*) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(*a*) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(*b*) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act in the absence of A and thereby, causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(*c*) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(*d*) A intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and, as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration

[illegible]

Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section and is liable to the punishment for murder.

Abetment in British India of offences outside it.

[1]**108A.** A person abets an offence within the meaning of this Code who, in British India, abets the commission of any act without and beyond British India which would constitute an offence if committed in British India.

Illustration

A, in British India, instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder.

Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations

(*a*) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161.

(*b*) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(*c*) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

Punishment of abetment if person abetted does act with different intention from that of abettor.

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Liability of abettor when one act abetted and different act done.

111. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it:

[1] This section was added by s. 3 of the Indian Penal Code Amendment Act, 1898 (4 of 1898).

Proviso.

Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations.

(*a*) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(*b*) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(*c*) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

Abettor when liable to cumulative punishment for act abetted and for act done.

112. If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration.

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and, if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress A will also be liable to punishment for each of the offences.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that [illegible] was likely to cause death, A is liable to be punished with the punishment provided for murder.

Abettor present when offence is committed.

114. Whenever any person, who if absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Abetment of offence punishable with death or

115. Whoever abets the commission of an offence punishable with death or transportation for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for

the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

transportation for life—if offence not committed;

and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

if act causing harm be done in consequence.

Illustration

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine ; and, if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years and to fine.

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one fourth part of the longest term provided for that offence ; or with such fine as is provided for that offence, or with both ;

Abetment of offence punishable with imprisonment—if offence be not committed;

and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

if abettor or person abetted be a public servant whose duty it is to prevent offence.

Illustrations

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(b) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(c) A, a police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one half of the longest term of imprisonment provided for that offence, and also to fine.

(d) B abets the commission of a robbery by A, a police officer, whose duty it is to prevent that offence. Here though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

117. Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Abetting commission of offence by the public or by more than ten persons.

Illustration

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

(*Chapter V.—Of Abetment.*)

Concealing design to commit offence punishable with death or transportation for life—

118. Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or transportation for life,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence or makes any representation which he knows to be false respecting such design,

if offence be committed;

shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years; and in either case shall also be liable to fine.

if offence be not committed.

Illustration.

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section.

Public servant concealing design to commit offence which it is his duty to prevent—

119. Whoever, being a public servant intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

if offence be committed;

shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both;

if offence be punishable with death, etc.;

or, if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years;

if offence be not committed.

or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment or with such fine as is provided for the offence, or with both.

Illustration.

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commision of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

120. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, Concealing design to commit offence punishable with imprisonment—

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both. if offence be committed; if offence be not committed.

[1][CHAPTER VA

CRIMINAL CONSPIRACY.

120A. When two or more persons agree to do, or cause to be done,— Definition of criminal conspiracy.

(*1*) an illegal act, or

(*2*) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

120B. (*1*) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence. Punishment of criminal conspiracy.

(*2*) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]

[1] Ins. by the Indian Criminal Law Amendment Act, 1913 (8 of 1913), s. 3.

CHAPTER VI.

OF OFFENCES AGAINST THE STATE.

Waging or attempting to wage war or abetting waging of war against the Queen.

121. Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or transportation for life, [1][and shall also be liable to fine].

Illustrations.

(*a*) A joins an insurrection against the Queen. A has committed the offence defined in this section.

(*b*) A in India abets an insurrection against the Queen's Government of Ceylon by sending arms to the insurgents. A is guilty of abetting the waging of war against the Queen.

Conspiracy to commit offences punishable by section 121.

[2]**121A.** Whoever within or without British India conspires to commit any of the offences punishable by section 121, or to deprive the Queen of the sovereignty of British India [3][of British Burma] or of any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, [4][the Central Government or any Provincial Government or the Government of Burma], shall be punished with transportation for life or any shorter term, or with imprisonment of either description which may extend to ten years, [5][and shall also be liable to fine].

Explanation.—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.

Collecting arms, etc., with intention of waging war against the Queen.

122. Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Queen, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, [6][and shall also be liable to fine].

Concealing with intent to facilitate design to wage war.

123. Whoever, by any act, or by any illegal omission, conceals the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Assaulting Governor General, Governor, etc., with

124. Whoever, with the intention of inducing or compelling the Governor General of India, or the Governor of any [7][Province], [8]* * * * * or a Member of the Council of the Governor General of India, [9]* * * to

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[1] Subs. by the Indian Penal Code (Amendment) Act, 1921 (16 of 1921), s. 2, for "and shall forfeit all his property."

[2] S. 121A ins. by the Indian Penal Code Amendment Act 1870 (27 of 1870), s. 4.

[3] Ins. by the A. O.

[4] Subs. by *ibid* for "the G. of I. or any L. G."

[5] These words were inserted by s. 3 of the Indian Penal Code (Amendment) Act, 1921 (16 of 1921).

[6] Subs. for "and shall forfeit all his property" by s. 2 of the Indian Penal Code (Amendment) Act, 1921 (16 of 1921).

~~[7] Subs. by the A. O. for "Presidency."~~

[8] The words "or a Lieutenant-Governor" rep. by *ibid.*

[9] The words "or of the Council of any Presidency" rep. by *ibid.*

exercise or refrain from exercising in any manner any of the lawful powers of such Governor General, Governor, [1]* * * * or Member of Council, — Intent to compel or restrain the exercise of any lawful power.

assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such Governor General, Governor, [1]* * * * or Member of Council,

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

[2]**124A.** Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty [3][or the Crown Representative] or the Government established by law in British India, [3][or British Burma] shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine. — Sedition.

Explanation 1.—The expression "disaffection" includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

125. Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the Queen or attempts to wage such war, or abets the waging of such war, shall be punished with transportation for life, to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine. — Waging war against any Asiatic Power in alliance with the Queen.

126. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with the Queen, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation. — Committing depredation on territories of Power at peace with the Queen.

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[1] The word "Lieutenant Governor" rep. by the A. O.
[2] Subs. by the Indian Penal Code Amendment Act, 1898 (4 of 1898), s. 4 for the original s. 124A which was ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 5.
[3] Ins. by the A. O.

Receiving property taken by war or depredation mentioned in sections 125 and 126.

127. Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

Public servant voluntarily allowing prisoner of State or war to escape.

128. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Public servant negligently suffering such prisoner to escape.

129. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

Aiding escape of, rescuing or harbouring such prisoner.

130. Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in British India, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VII.

OF OFFENCES RELATING TO THE ARMY, [1][NAVY AND AIR FORCE].

Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty.

131. Whoever abets the committing of mutiny by an officer, soldier, [2][sailor or airman], in the Army, [3][Navy or Air Force] of the Queen, or attempts to seduce any such officer, soldier, [2][sailor or airman] from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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[1] Subs. by the Repealing and Amending Act, 1927 (10 of 1927) s. 2 and Sch. I, for "and Navy."

[2] Subs. by *ibid* for "or sailor."

[3] Subs. for "or Navy" by *ibid.*

[1]*Explanation.*—In this section the words "officer", [2]["soldier", [3]["sailor"] and "airman"] include any person subject to the [4][Army Act, the Indian Army Act, 1911, [5][the Naval Discipline Act or that Act as modified by the Indian Navy (Discipline) Act, 1934], [6][the Air Force Act or the Indian Air Force Act, 1932], as the case may be.]

Abetment of mutiny, if mutiny is committed in consequence thereof.

132. Whoever abets the committing of mutiny by an officer, soldier, [7][sailor or airman], in the Army, [8][Navy or Air Force] of the Queen, shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office.

133. Whoever abets an assault by an officer, soldier, [7][sailor or airman], in the Army [8][Navy or Air Force] of the Queen, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of such assault, if the assault is committed.

134. Whoever abets an assault by an officer, soldier, [7][sailor or airman], in the Army, [8][Navy or Air Force] of the Queen, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of desertion of soldier, sailor or airman.

135. Whoever abets the desertion of any officer, soldier, [7][sailor or airman], in the Army, [8][Navy or Air Force] of the Queen, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring deserter.

136. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, [7][sailor or airman], in the Army, [8][Navy or Air Force] of the Queen, has deserted, harbours such officer, soldier, [7][sailor or airman], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

Deserter concealed on board merchant vessel.

137. The master or person in charge of a merchant vessel, on board of which any deserter from the Army, [8][Navy or Air Force] of the Queen is concealed, shall, though ignorant of such concealment, be liable to a penalty not

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[1] Ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 6.

[2] Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "and soldier".

[3] Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

[4] Subs. by ibid for "Articles of War, for the better government of Her Majesty's Army, or to the Articles of War contained in Act No. 5 of 1869".

[5] Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

[6] Subs. by the Indian Air Force Act, 1932 (14 of 1932), s. 130 and Sch. for "or the Air Force Act".

[7] Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "or sailor".

[8] Subs. by ibid for "or Navy".

through negligence of master.

exceeding five hundred rupees, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Abetment of act of insubordination by soldier, sailor or airman.

138. Whoever abets what he knows to be an act of insubordination by an officer, soldier, [1][sailor or airman], in the Army, [2][Navy or Air Force] of the Queen, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

138A. [*Application of foregoing sections to the Indian Marine service.*] *Rep. by the Amending Act, 1934 (XXXV of 1934), s. 2 and Sch.*

Persons subject to certain Acts.

139. No person subject to [3][the Army Act], the Indian Army Act, 1911, the Naval Discipline Act [4][or that Act as modified by the Indian Navy (Discipline) Act, 1934] [5][the Air Force Act or the Indian Air Force Act, 1932] is subject to punishment under this Code for any of the offences defined in this Chapter.

Wearing garb or carrying token used by soldier, sailor or airman.

140. Whoever, not being a soldier, [6][sailor or airman] in the Military, [7][Naval or Air] service of the Queen, wears any garb or carries any token resembling any garb or token used by such a soldier [6][sailor or airman] with the intention that it may be believed that he is such a soldier, [6][sailor or airman], shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VIII.

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

Unlawful assembly.

141. An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly is—

First.—To overawe by criminal force, or show of criminal force, [8][the Central or any Provincial Government or Legislature], or any public servant in the exercise of the lawful power of such public servant; or

Second.—To resist the execution of any law, or of any legal process; or

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[1] Subs. by the Repealing and Amending Act, 1927 (10 of 1927). s. 2 and Sch. I, for "or sailor."

[2] Subs. by *ibid* for "or Navy."

[3] Subs. by *ibid* for "any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy."

[4] Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

[5] Subs. by the Indian Air Force Act, 1932 (14 of 1932), s. 130 and Sch., for "or the Air Force Act,".

[6] Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

[7] Subs. by *ibid* for "or Naval."

[8] Subs. by the A. O. for "the Legislative or Executive G. of I., or the Govt. of any Presidency, or any Lieutenant-Governor."

(*Chapter VIII.—Of Offences against the Public Tranquillity*)

Third.—To commit any mischief or criminal trespass, or other offence; or

Fourth.—By means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly. Being member of unlawful assembly.

143. Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both. Punishment.

144. Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Joining unlawful assembly armed with deadly weapon.

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting. Rioting.

147. Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Punishment for rioting.

148. Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Rioting armed with deadly weapon.

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence. Every member of unlawful assembly guilty of offence committed in prosecution of common object.

(*Chapter VIII.—Of Offences against the Public Tranquillity.*)

Hiring, or conniving at hiring, of persons to join unlawful assembly.

150. Whoever hires or engages, or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Explanation.—If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

Assaulting or obstructing public servant when suppressing riot, etc.

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both.

Wantonly giving provocation with intent to cause riot—if rioting be committed; if not committed.

153. Whoever malignantly, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Promoting enmity between classes.

[1][**153A.** Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty's subjects, shall be punished with imprisonment which may extend to two years, or with fine or with both.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce, feelings of enmity or hatred between different classes of Her Majesty's subjects.]

Owner or occupier of land on which an

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land,

[1] This section was added by s. 5 of the Indian Penal Code Amendment Act, 1898 (4 of 1898)

shall be punishable with fine not exceeding one thousand rupees if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed do not give the earliest notice thereof in his or their power to the principal officer at the nearest police station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly

unlawful assembly is held.

Liability of person for whose benefit riot is committed

155 Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom such person shall be punishable with fine if he or his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place and for suppressing and dispersing the same

Liability of agent of owner or occupier for whose benefit riot is committed

156 Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land or in the subject of any dispute which gave rise to the riot or who has accepted or derived any benefit therefrom,

the agent or manager of such person shall be punishable with fine if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same

Harbouring persons hired for an unlawful assembly

157. Whoever harbours, receives or assembles, in any house or premises in his occupation or charge, or under his control any persons knowing that such persons have been hired, engaged or employed, or are about to be hired engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both

Being hired to take part in an unlawful assembly or riot

158 Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both

or to go armed

and whoever, being so engaged or hired as aforesaid, goes armed or engages or offers to go armed with any deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Affray.

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray".

Punishment for committing affray.

160. Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

CHAPTER IX.

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

Public servant taking gratification other than legal remuneration in respect of an official act.

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, [1][with the Central or any Provincial Government or Legislature], or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations.—"Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

"Gratification." The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

"Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government, which he serves, to accept.

"A motive or reward for doing." A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations.

(*a*) A, a munsif, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section.

(*b*) A, holding the office of Resident at the Court of a subsidiary Power, accepts a lakh of rupees from the Minister of that Power. It does [illegible] this sum as a motive or reward for doing or forbearing to do any [illegible] rendering or attempting to render any particular service to that Power with the British Government. But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power. A has committed the offence defined in this section.

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[1] Subs. by the A. O. for "with the Legislative or Executive G. of I., or with the Govt. of any Presidency, or with any Lieutenant-Governor."

(c) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z and thus induces Z to give A money as a reward for this service A has committed the offence defined in this section

162. Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person [1][with the Central or any Provincial Government or Legislature], or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Taking gratification, in order, by corrupt or illegal means, to influence public servant

163. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person [1][with the Central or any Provincial Government or Legislature], or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both

Taking gratification, for exercise of personal influence with public servant

Illustration

[illegible]

this section, inasmuch as they do not exercise or profess to exercise personal influence.

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for abetment by public servant of offences defined in section 162 or 163

Illustration

A is a public servant B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person A abets her doing so B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both A is punishable with imprisonment for a term which may extend to three years or with fine, or with both

165. Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate,

Public servant obtaining valuable thing, without consideration.

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[1] Subs by the A. O for "with the Legislative or Executive G of I, or with the Govt. of any Presidency, or with any Lieutenant Governor",

from person concerned in proceeding or business transacted by such public servant.

from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate,

or from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a*) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(*b*) A, a Judge, buys of Z, who has a cause pending in A's Court, Government promissory notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(*c*) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

Public servant disobeying law, with intent to cause injury to any person.

166. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

Public servant framing an incorrect document with intent to cause injury.

167. Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant unlawfully engaging in trade.

168. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant unlawfully buying or bidding for property.

169. Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description, for a term which may extend to two years or with fine, or with both — Personating a public servant

171. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed that he belongs to that class of public servants, shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both — Wearing garb or carrying token used by public servant with fraudulent intent.

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[1]CHAPTER IXA

OF OFFENCES RELATING TO ELECTIONS

171A. For the purposes of this Chapter—

(*a*) "candidate" means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat, provided that he is subsequently nominated as a candidate at such election, — "Candidate," "Electoral right" defined

(*b*) "electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being a candidate or to vote or refrain from voting at an election

171B. (*1*) Whoever— — Bribery

(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right, or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,

commits the offence of bribery :

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section

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[1] Chapter IXA ins by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920).

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(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

Undue influence at elections.

171C. (*1*) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of sub-section (*1*), whoever—

(*a*) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(*b*) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (*1*).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

Personation at elections.

171D. Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

Punishment for bribery.

171E. Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Provided that bribery by treating shall be punished with fine only.

Explanation.—'Treating' means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

Punishment for undue influence or personation at an election.

171F. Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

False statement in connection with an election.

171G. Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

(Chapter IXA.—Of Offences relating to Elections. Chapter X.—Of contempts of the lawful authority of Public Servants.)

171H. Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees: Illegal payments in connection with an election.

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

171I. Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees. Failure to keep election accounts.

CHAPTER X.

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172. Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both; Absconding to avoid service of summons or other proceeding.

or, if the summons or notice or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

173. Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, Preventing service of summons or other proceeding, or preventing publication thereof.

or intentionally prevents the lawful affixing to any place of any such summons, notice or order,

or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Non-attendance in obedience to an order from public servant.

174. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same,

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations.

(*a*) A, being legally bound to appear before the Supreme Court at Calcutta in obedience to a subpœna issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section.

(*b*) A, being legally bound to appear before a Zila Judge, as a witness, in obedience to a summons issued by that Zila Judge, intentionally omits to appear. A has committed the offence defined in this section.

Omission to produce document to public servant by person legally bound to produce it.

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustration.

A, being legally bound to produce a document before a Zila Court, intentionally omits to produce the same. A has committed the offence defined in this section.

Omission to give notice or information to public servant by person legally bound to give it.

176. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

177. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both ; Furnishing false information.

or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations

(*a*) A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

(*b*) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound, under clause 5, section VII, [1]Regulation III, 1821, of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest police station, wilfully misinforms the police-officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in the latter part of this section.

[2][*Explanation.*—In section 176 and in this section the word "offence" includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ; and the word "offender" includes any person who is alleged to have been guilty of any such act.]

178. Whoever refuses to bind himself by an oath [3][or affirmation] to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Refusing oath or affirmation when duly required by public servant to make it.

179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Refusing to answer public servant authorised to question.

[1] Rep. by Act 17 of 1862.
[2] Ins. by the Indian Criminal Law Amendment Act, 1894 (3 of 1894), s. 5.
[3] Ins. by the Indian Oaths Act, 1873 (10 of 1873), s. 15.

(*Chapter X.—Of contempts of the lawful authority of Public Servants.*)

Refusing to sign statement.

180. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

False statement on oath or affirmation to public servant or person authorized to administer an oath or affirmation.

181. Whoever, being legally bound by an oath [1][or affirmation] to state the truth on any subject to any public servant or other person authorized by law to administer such oath [1][or affirmation], makes, to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

False information with intent to cause public servant to use his lawful power to the injury of another person.

[2]**182.** Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(*a*) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(*b*) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations.

(*a*) A informs a Magistrate that Z, a police-officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

(*b*) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

(*c*) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.

Resistance to the taking of property by the lawful authority of a public servant.

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

[1] Ins. by the Indian Oaths Act, 1873 (10 of 1873), s. 15.
[2] Subs. by s. 1 of the Indian Criminal Law Amendment Act, 1895 (3 of 1895) for original s. 182.

(*Chapter X.—Of contempts of the lawful authority of Public Servants.*)

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both. **Obstructing sale of property offered for sale by authority of public servant**

185. Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both. **Illegal purchase or bid for property offered for sale by authority of public servant**

186. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both. **Obstructing public servant in discharge of public functions**

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both ; **Omission to assist public servant when bound by law to give assistance**

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot, or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

188. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, **Disobedience to order duly promulgated by public servant**

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees or with both ;

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration.

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

Threat of injury to public servant.

189. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Threat of injury to induce person to refrain from applying for protection to public servant.

190. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XI.

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

Giving false evidence.

191. Whoever being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Explanation 1.—A statement is within the meaning of this section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations.

(*a*) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(*b*) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(*d*) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not.

(*e*) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

192. Whoever causes any circumstance to exist or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence". Fabricating false evidence.

Illustrations

(*a*) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(*b*) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

193. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; Punishment for false evidence.

and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court-martial[1] * * is a judicial proceeding.

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

[1] The words "or before a Military Court of Request" were rep. by the Cantonments Act, 1889 (13 of 1889). Act 13 of 1889 was rep. by Act 15 of 1910 which in turn has been rep. by Act 2 of 1924.

Illustration.

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Giving or fabricating false evidence with intent to procure conviction of capital offence;

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital [1][by the law of British India or England], shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;

if innocent person be thereby convicted and executed.

and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

Giving or fabricating false evidence with intent to procure conviction of offence punishable with transportation or imprisonment.

195. Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which [1][by the law of British India or England] is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration.

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such transportation or imprisonment, with or without fine.

Using evidence known to be false.

196. Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Issuing or signing false certificate.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

1 Subs. by s. 149 of the Indian Railways Act, 1890 (9 of 1890) for "by this Code".

198. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence. Using as true a certificate known to be false.

199. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence. False statement made in declaration which is by law receivable as evidence.

200. Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence. Using as true such declaration knowing it to be false.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 and 200.

201. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, Causing disappearance of evidence of offence, or giving false information to screen offender—

shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if a capital offence;

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; if punishable with transportation;

and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both. if punishable with less than ten years' imprisonment.

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both. Intentional omission to give information of offence by person bound to inform.

Illustration.

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Giving or fabricating false evidence with intent to procure conviction of capital offence;

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital [1][by the law of British India or England], shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;

if innocent person be thereby convicted and executed.

and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

Giving or fabricating false evidence with intent to procure conviction of offence punishable with transportation or imprisonment.

195. Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which [1][by the law of British India or England] is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration.

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such transportation or imprisonment, with or without fine.

Using evidence known to be false.

196. Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Issuing or signing false certificate.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

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[1] Subs. by s. 149 of the Indian Railways Act, 1890 (9 of 1890) for " by this Code ".

(Chapter XI.—Of false Evidence and Offences against Public Justice.)

198. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence. *Using as true a certificate known to be false.*

199. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence *False statement made in declaration which is by law receivable as evidence*

200. Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence. *Using as true such declaration knowing it to be false.*

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 and 200

201. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, *Causing disappearance of evidence of offence, or giving false information to screen offender.*

shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; *if a capital offence;*

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; *if punishable with transportation;*

and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both. *if punishable with less than ten years' imprisonment.*

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment A is liable to imprisonment of either description for seven years, and also to fine.

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both. *Intentional omission to give information of offence by person bound to inform.*

(*Chapter XI.—Of false Evidence and Offences against Public Justice.*)

Giving false information respecting an offence committed.

203. Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

[1][*Explanation.*—In sections 201 and 202 and in this section the word "offence" includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.]

Destruction *of document* to prevent its production as evidence.

204. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant, as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False personation for purpose of act or proceeding in suit or prosecution.

205. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Fraudulent removal or concealment of property to prevent its seizure as forfeited *or in execution.*

206. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent claim to property to prevent its seizure as forfeited or in execution.

207. Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which

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[1] Ins. by the Indian Criminal Law Amendment Act, *1894 (3 of 1894)*, s. 7.

he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently suffering decree for sum not due.

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration

[illegible]

Dishonestly making false claim in Court.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Fraudulently obtaining decree for sum not due.

210. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False charge of offence made with intent to injure.

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Harbouring offender—

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,

if a capital offence;

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine;

if punishable with transportation for life, or with imprisonment.

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

[1]["Offence" in this section includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India.]

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Taking gift, etc., to screen an offender from punishment—

213. Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

if a capital offence;

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with transportation for life, or with imprisonment.

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Offering gift or restoration of property in con-

214. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence,

[1] Ins. by the Indian Criminal Law Amendment Act, 1894 (3 of 1894), s. 7.

or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, — sideration of screening offender—

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; — if a capital offence;

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; — if punishable with transportation for life, or with imprisonment.

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

[1]*Exception.*—The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.

[*Illustrations.*] *Rep. by the Code of Criminal Procedure, 1882 (X of 1882).*

215. Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any moveable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. — Taking gift to help to recover stolen property, etc.

216. Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, — Harbouring offender who has escaped from custody or whose apprehension has been ordered—

or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say,

if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; — if a capital offence;

if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine; — if punishable with transportation for life, or with imprisonment.

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[1] Subs. by s. 6 of the Indian Penal Code Amendment Act, 1882 (8 of 1882) for the original Exception.

and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence or with fine, or with both.

[1]["Offence" in this section includes also any act or omission of which a person is alleged to have been guilty out of British India which, if he had been guilty of it in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in 44
custody in British India, and every such act or omission shall, for the purposes c.
of this section, be deemed to be punishable as if the accused person had been guilty of it in British India.]

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

Penalty for harbouring robbers or dacoits.

[2][**216A.** Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without British India.

Exception.—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

Definition of "harbour" in sections 212, 216 and 216A.

216B. In sections 212, 216 and 216A the word "harbour" includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person in any way to evade apprehension.]

Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Public servant framing incorrect record or writing with intent to

218. Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause,

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[1] Ins. by the Indian Criminal Law Amendment Act, 1886 (10 of 1886), s. 23.
[2] Ins. by the Indian Criminal Law Amendment Act, 1894 (3 of 1894), s. 8.

or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. save person from punishment or property from forfeiture.

219. Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. Public servant in judicial proceeding corruptly making report, etc., contrary to law.

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.

221. Whoever, being a public servant legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :— Intentional omission to apprehend on the part of public servant bound to apprehend.

with imprisonment of either description for a term which may extend to seven years, with or without fine if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death ; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with transportation for life or imprisonment for a term which may extend to ten years ; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than ten years.

222. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence [1][or lawfully committed to custody], intentionally Intentional omission to apprehend on the part of public

[1] Ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 8.

servant bound to apprehend person under sentence or lawfully committed.

omits to apprehend such person, or intentionally suffers such person to escape; or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows that is to say :—

with transportation for life or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death ; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life or penal servitude for life, or to transportation or penal servitude or imprisonment for a term of ten years or upwards ; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years [1][or if the person was lawfully committed to custody].

Escape from confinement or custody negligently suffered by public servant.

223. Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence [1][or lawfully committed to custody], negligently suffers such persons to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Resistance or obstruction by a person to his lawful apprehension.

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

Resistance or obstruction to lawful apprehension of another person.

225. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both ;

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may

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[1] Ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 8.

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extend to ten years shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine,

or, if the person to be apprehended or rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine,

or if the person to be apprehended or rescued or attempted to be rescued, is liable under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation penal servitude or imprisonment for a term of ten years or upwards shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine

or if the person to be apprehended or rescued or attempted to be rescued, is under sentence of death shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years and shall also be liable to fine

Omission to apprehend, or sufferance of escape on part of public servant in cases not otherwise provided for

[1]**225A.** Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221 section 222 or section 223 or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

(a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine or with both, and

(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both

Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for

[1]**225B.** Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both

Unlawful return from transportation

226. Whoever, having been lawfully transported, returns from such transportation the term of such transportation not having expired, and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported

[1] Ss. 225A and 225B were subs. by s. 2(1) of the Indian Criminal Law Amendment Act 1886 (10 of 1886) for s. 225A which was ins. by s. 9 of the Indian Penal Code Amendment Act, 1870 (27 of 1870)

Violation of condition of remission of punishment.

227. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Intentional insult or interruption to public servant sitting in judicial proceeding.

228. Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Personation of a juror or assessor.

229. Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as a juryman or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

"Coin" defined.

230. [1][Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.]

Queen's coin.

[2][Queen's coin is metal stamped and issued by the authority of the Queen, or by the authority of [3][the Central Government] or of the Government of any Presidency, or of any Government in the Queen's dominions, in order to be used as money; and metal which has been so stamped and issued shall continue to be the Queen's coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.]

Illustrations.

(*a*) Cowries are not coin.

(*b*) Lumps of unstamped copper, though used as money, are not coin.

(*c*) Medals are not coin, inasmuch as they are not intended to be used as money.

(*d*) The coin denominated as the Company's rupee is the Queen's coin.

[4][(*e*) The "Farukhabad" rupee, which was formerly used as money under the authority of the Government of India, is Queen's coin although it is no longer so used.]

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[1] Subs. for original paragraph, by the Indian Penal Code Amendment Act, 1872 (19 of 1872).

[2] Subs. for original paragraph, by s. 1 (1) of the Indian Penal Code Amendment Act, 1896 (6 of 1896).

[3] Subs. by the A. O. for "the G. of I."

[4] Ins. by the Indian Penal Code Amendment Act, 1896 (6 of 1896), s. 1 (2).

231. Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. *Counterfeiting coin.*

Explanation.—A person commits this offence who intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

232. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. *Counterfeiting Queen's coin.*

233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. *Making or selling instrument for counterfeiting coin.*

234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. *Making or selling instrument for counterfeiting Queen's coin.*

235. Whoever is in possession of any instrument or material for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; *Possession of instrument or material for the purpose of using the same for counterfeiting coin.*

and if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. *If Queen's coin.*

236. Whoever, being within British India, abets the counterfeiting of coin out of British India, shall be punished in the same manner as if he abetted the counterfeiting of such coin within British India. *Abetting in India the counterfeiting out of India of coin.*

237. Whoever imports into British India, or exports therefrom, any counterfeit coin, knowingly or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. *Import or export of counterfeit coin.*

238. Whoever imports into British India, or exports therefrom, any counterfeit coin which he knows or has reason to believe to be a counterfeit of the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. *Import or export of counterfeits of the Queen's coin.*

(*Chapter XII.—Of Offences relating to Coin and Government Stamps.*)

Delivery of coin, possessed with knowledge that it is counterfeit.

239. Whoever, having any counterfeit coin, which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of Queen's coin, possessed with knowledge that it is counterfeit.

240. Whoever, having any counterfeit coin, which is a counterfeit of the Queen's coin, and which, at the time when he became possessed of it, he know to be a counterfeit of the Queen's coin, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Illustration.

A, a coiner, delivers counterfeit Company's rupees to his accomplice B, for the purpose of uttering them. B sells the rupees to C, another, utterer, who buys them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them, not knowing them to be counterfeit. D after receiving the rupees, discovers that they are counterfeit and pays them away as if they were good. Here D is punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be.

Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.

242. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of Queen's coin by person who knew it to be counterfeit when he became possessed thereof.

243. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Person employed in mint causing coin to be of different

244. Whoever, being employed in any mint lawfully established in British India, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with

imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

weight or composition from that fixed by law.

245. Whoever, without lawful authority, takes out of any mint, lawfully established in British India, any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Unlawfully taking coining instrument from mint.

246. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing weight or altering composition of coin.

Explanation.—A person who scoops out part of the coin and puts anything else into the cavity alters the composition of that coin.

247. Whoever fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing weight or altering composition of Queen's coin.

248. Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Altering appearance of coin with intent that it shall pass as coin of different description.

249. Whoever performs on any of the Queen's coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Altering appearance of Queen's coin with intent that it shall pass as coin of different description.

250. Whoever, having coin in his possession with respect to which the offence defined in section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of coin possessed with knowledge that it is altered.

251. Whoever, having coin in his possession with respect to which the offence defined in section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce

Delivery of Queen's coin possessed with knowledge that it is altered.

any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Possession of coin by person who knew it to be altered when he became possessed thereof.

252. Whoever fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of Queen's coin by person who knew it to be altered when he became possessed thereof.

253. Whoever fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 247 or 249 has been committed having known at the time of becoming possessed thereof, that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of coin as genuine which, when first possessed, the deliverer did not know to be altered.

254. Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in sections 246, 247, 248, or 249 has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

Counterfeiting Government stamp.

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with transportation for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

Having possession of instrument or material for counterfeiting Government stamp.

256. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or selling instrument for counterfeiting

257. Whoever makes or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose

of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine. Government stamp.

258. Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Sale of counterfeit Government stamp.

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue intending to use, or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Having possession of counterfeit Government stamp.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years or with fine, or with both. Using as genuine a Government stamp known to be counterfeit.

261. Whoever fraudulently or with intent to cause loss to the Government, removes or effaces from any substance, bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Effacing writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government.

262. Whoever fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Using Government stamp known to have been before used.

263. Whoever fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark, put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession or sells or disposes of any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Erasure of mark denoting that stamp has been used.

[1]**263A.** (*1*) Whoever— Prohibition of fictitious stamps.

(*a*) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or

[1] S. 263A ins. by the Indian Criminal Law Amendment Act, 1895 (3 of 1895), s. 2.

(*b*) has in his possession, without lawful excuse, any fictitious stamp, or

(*c*) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

(*2*) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

(*3*) In this section "fictitious stamp" means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

(*4*) In this section and also in sections 255 to 263, both inclusive, the word "Government" when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorized by law to administer executive government in any part of India, and also in any part of Her Majesty's dominions or in any foreign country.

CHAPTER XIII.

Of Offences relating to Weights and Measures.

Fraudulent use of false instrument for weighing.

264. Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulent use of false weight or measure.

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Being in possession of false weight or measure.

266. Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making, or selling false weight or measure.

267. Whoever makes, sells or disposes of any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIV

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

Public Nuisance.

268. A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

Negligent act likely to spread infection of disease dangerous to life.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Malignant act likely to spread infection of disease dangerous to life.

270. Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disobedience to quarantine rule.

271. Whoever knowingly disobeys any rule made and promulgated [1][by the Central or any Provincial Government or the Crown Representative] for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Adulteration of food or drink intended for sale.

272. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of noxious food or drink.

273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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[1] Subs. by the A. O. for "by the G. of I., or by any Govt."

(Chapter XIV.—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

Adulteration of drugs.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of adulterated drugs.

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of drug as a different drug or preparation.

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Fouling water of public spring or reservoir.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Making atmosphere noxious to health.

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

Rash driving or riding on a public way.

279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Rash navigation of vessel.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Exhibition of false light, mark or buoy.

281. Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

(Chapter XIV.—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

282. Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Conveying person by water for hire in unsafe or overloaded vessel.

283. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees. Danger or obstruction in public way or line of navigation.

284. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person, Negligent conduct with respect to poisonous substance.

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against probable danger to human life from such poisonous substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, which may extend to one thousand rupees, or with both.

285. Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, Negligent conduct with respect to fire or combustible matter.

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

286. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, Negligent conduct with respect to explosive substance.

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

287. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other person, Negligent conduct with respect to machinery.

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent conduct with respect to pulling down or repairing buildings.

288. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Ngleigent conduct with respect to animal.

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Punishment for public nuisance in cases not otherwise provided for.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

Continuance of nuisance after injunction to discontinue.

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Sale, etc., of obscene books, etc.

[1][**292.** Whoever—

(*a*) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or

(*b*) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or

(*c*) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or

(*d*) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or

[1] Subs. for original s. 292 by the Obscene Publications Act, 1925 (8 of 1925), s. 2.

(c) offers or attempts to do any act which is an offence under this section,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception.—This section does not extend to any book, pamphlet, writing, drawing or painting kept or used *bonâ fide* for religious purposes or any representation sculptured, engraved, painted or otherwise represented on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.]

Sale, etc., of obscene objects to young person.

[1][293. Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]

Obscene acts and songs.

[2][294. Whoever, to the annoyance of others,

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene songs, ballad or words, in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.]

Keeping lottery office.

[3][294A. Whoever keeps any office or place for the purpose of drawing any lottery [4][not being a State lottery or a lottery authorised by the Provincial Government] shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery shall be punished with fine which may extend to one thousand rupees.]

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION.

Injuring or defiling place of worship with intent to

295. Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of

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[1] Subs. by s. 2 of the Obscene Publications Act, 1925 (8 of 1925), for original s. 293.

[2] Subs. by s. 3 of the Indian Criminal Law Amendment Act, 1895 (3 of 1895), for original s. 294.

[3] S. 294A ins. by s. 10 of the Indian Penal Code Amendment Act, 1870 (27 of 1870).

[4] Subs. by the A. O. for "not authorised by Govt.".

insult the religion of any class.

persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

[1][**295A.** Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of His Majesty's subjects, by words, either spoken or written, or by visible representations insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.]

Disturbing religious assembly.

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Trespassing on burial places, etc.

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby,

commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Uttering words, etc., with deliberate intent to wound religious feelings.

298. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XVI.

OF OFFENCES AFFECTING THE HUMAN BODY.

Of Offences affecting Life.

Culpable homicide.

299. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause

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[1] Ins. by s. 2 of the Criminal Law Amendment Act, 1927 (25 of 1927).

death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide

Illustrations

[illegible] ion of thereby causing death, or with [illegible] Z, believing the ground to be firm, [illegible] e offence of culpable homicide. [illegible] w it A, intending to cause, or know- [illegible]

Explanation 1—A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity and thereby accelerates the death of that other, shall be deemed to have caused his death

Explanation 2—Where death is caused by bodily injury the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented

Explanation 3—The causing of the death of a child in the mother's womb is not homicide But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

300. Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or— **Murder.**

2ndly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations

(a) A shoots Z with the intention of killing him Z dies in consequence A commits murder.

(b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death strikes him with the intention of [illegible]

[illegible] of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death or such bodily injury as in the ordinary course of nature would cause death.

(*c*) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

(*d*) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

When culpable homicide is not murder.

Exception 1.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos :—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations.

(*a*) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(*b*) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(*c*) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(*d*) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(*e*) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(*f*) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2.—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration.

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

Illustration.

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

Culpable homicide by causing death of person other than person whose death was intended.

301. If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

Punishment for murder.

302. Whoever commits murder shall be punished with death, or transportation for life, and shall also be liable to fine.

Punishment for murder by life-convict.

303. Whoever, being under sentence of transportation for life, commits murder, shall be punished with death.

Punishment for culpable homicide not amounting to murder.

304. Whoever commits culpable homicide not amounting to murder, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death;

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death or to cause such bodily injury as is likely to cause death.

Causing death by negligence.

[1]**304A.** Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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[1] S. 304A ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 12.

betment of uicide of *ild or* isane erson.

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication commits suicide, whoever abets the commission of such suicide shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

betment f suicide.

306. If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

ttempt to iurder.

307. Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if hurt is caused to any person by such act, the offender shall be liable either to transportation for life, or to such punishment as is hereinbefore mentioned.

ttempts by fe-convicts.

[1][*When any person offending under this section is under sentence of transportation for life, he may, if hurt is caused, be punished with death.*]

Illustrations.

(*a*) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this section.

(*b*) A with the intention of causing the death of a child of tender years exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

(*c*) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and, if by such firing he wounds Z, he is liable to the punishment provided by the latter part of [2][the first paragraph of] this section.

(*d*) A, intending to murder Z, by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

ttempt to ommit ulpable iomicide.

308. Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

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[1] Ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 11.
[2] Ins. by the Amending Act, 1891 (12 of 1891), Sch. II.

309. Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, [1][or with fine, or with both.] *Attempt to commit suicide.*

310. Whoever, at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child stealing by means of or accompanied with murder, is a thug. *Thug.*

311. Whoever is a thug, shall be punished with transportation for life, and shall also be liable to fine. *Punishment.*

Of the Causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the Concealment of Births.

312. Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. *Causing miscarriage.*

Explanation.—A woman who causes herself to miscarry, is within the meaning of this section.

313. Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. *Causing miscarriage without woman's consent.*

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; *Death caused by act done with intent to cause miscarriage.*

and if the act is done without the consent of the woman, shall be punished either with transportation for life, or with the punishment above mentioned. *If act done without woman's consent.*

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

315. Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both. *Act done with intent to prevent child being born alive or to cause it to die after birth.*

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[1] Subs. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 7, for "and shall also be liable to fine".

Causing death of quick unborn child by act amounting to culpable homicide.

316. Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section.

Exposure and abandonment of child under twelve years, by parent or person having care of it.

317. Whoever being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

Concealment of birth by secret disposal of dead body.

318. Whoever, by secretly burying or otherwise disposing of the dead body of a child whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Of Hurt.

Hurt.

319. Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Grievous hurt.

320. The following kinds of hurt only are designated as "grievous":—

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing hurt.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

322 Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt and if the hurt which he causes is grievous hurt is said "voluntarily to cause grievous hurt." Voluntarily causing grievous hurt

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt But he is said voluntarily to cause grievous hurt, if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind

Illustration

A intending or knowing himself to be likely permanently to disfigure Z's face gives Z a blow which does not permanently disfigure Z's face but which causes Z to suffer severe bodily pain for the space of twenty days A has voluntarily caused grievous hurt

323 Whoever except in the case provided for by section 334 voluntarily causes hurt shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one thousand rupees or with both Punishment for voluntarily causing hurt

324 Whoever except in the case provided for by section 334 voluntarily causes hurt by means of any instrument for shooting stabbing or cutting or any instrument which used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale to swallow or to receive into the blood, or by means of any animal shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both Voluntarily causing hurt by dangerous weapons or means

325 Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine Punishment for voluntarily causing grievous hurt

326 Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting stabbing or cutting or any instrument which used as a weapon of offence is likely to cause death or by means of fire or any heated substance, or by means of any poison or any corrosive substance or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale to swallow or to receive into the blood or by means of any animal shall be punished with transportation for life or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine Voluntarily causing grievous hurt by dangerous weapons or means

327. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer, any property or valuable security or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the Voluntarily causing hurt [illegible]

to an illegal act.

commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing hurt by means of poison, etc., with intent to commit an offence.

328. Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.

329. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything that is illegal or which may facilitate the commission of an offence, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort confession, or to compel restoration of property.

330. Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer or any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustrations.

(*a*) A, a police-officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.

(*b*) A, a police-officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.

(*c*) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.

(*d*) A, a zamindar, tortures a raiyat in order to compel him to pay his rent. A is guilty of an offence under this section.

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or any person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand or to give information which may lead to the restoration of any property or valuable security shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to deter

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent

or deter that person or any other public servant from discharging his duty as such public servant or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both

Voluntarily causing grievous hurt to deter public servant from his duty

333 Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine

Voluntarily causing hurt on provocation

334 Whoever voluntarily causes hurt on grave and sudden provocation if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation shall be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to five hundred rupees or with both

Voluntarily causing grievous hurt on provocation

335 Whoever [1][voluntarily] causes grievous hurt on grave and sudden provocation if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation shall be punished with imprisonment of either description for a term which may extend to four years or with fine which may extend to two thousand rupees or with both

Explanation —The last two sections are subject to the same provisos as Exception 1, section 300

Act endangering life or personal safety of others.

336 Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees or with both

Causing hurt by act endangering life or personal safety of others

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to five hundred rupees or with both

Causing grievous hurt by act endangering life or personal safety of others.

338 Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both

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[1] Ins. by the Indian Penal Code Amendment Act, 18[illegible] (8 of 188[illegible]) s. 8.

(*Chapter XVI.—Of Offences affecting the Human Body.*)

Of Wrongful Restraint and Wrongful Confinement.

Wrongful restraint.

339. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception.—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

Illustration.

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

Wrongful confinement.

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person.

Illustrations.

(*a*) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(*b*) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

Punishment for wrongful restraint.

341. Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Punishment for wrongful confinement.

342. Whoever wrongfully confines any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Wrongful confinement for three or more days.

343. Whoever wrongfully confines any person for three days or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wrongful confinement for ten or more days.

344. Whoever wrongfully confines any person for ten days, or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement of person for whose liberation writ has been issued.

345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter.

Wrongful confinement in secret.

346. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined or from any person interested in the person confined any property or valuable security or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine. Wrongful confinement to extort property or constrain to illegal act.

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand or to give information which may lead to the restoration of any property or valuable security shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine. Wrongful confinement to extort confession or compel restoration of property.

[1]*Of Criminal Force and Assault*

349. A person is said to use force to another if he causes motion change of motion or cessation of motion to that other or if he causes to any substance such motion or change of motion or cessation of motion as brings that substance into contact with any part of that other's body or with anything which that other is wearing or carrying or with anything so situated that such contact affects that other's sense of feeling. Provided that the person causing the motion or change of motion or cessation of motion causes that motion change of motion or cessation of motion in one of the three ways hereinafter described. Force

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part or on the part of any other person.

Thirdly.—By inducing any animal to move to change its motion or to cease to move.

350. Whoever intentionally uses force to any person without that person's consent in order to the committing of any offence or intending by the use of such force to cause or knowing it to be likely that by the use of such force he will cause injury fear or annoyance to the person to whom the force is used is said to use criminal force to that other. Criminal force

Illustrations

(a) Z is [illegible] boat on a river. A [illegible] the [illegible] and th[illegible] [illegible] tionally [illegible] [illegible] Here A intentionally [illegible] to Z

[1] As to pun[illegible] for an offence [illegible] committed in [illegible] Punjab Frontier District [illegible] see the Frontier Crimes Regulation 1901 (3 of 1901) s. 12

and he does this by disposing substances in such a manner that the motion is produced w. any other action on any person's part. A has therefore intentionally used force to Z; he has done so without Z's consent, in order to the committing of any offence, or intend knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, used criminal force to Z.

(*b*) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicker pace. Here A has caused change of motion to Z by inducing the animals to change their m A has therefore used force to Z; and if A has done this without Z's consent, intending or kn it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force t

(*c*) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the quin. Here A has caused cessation of motion to Z, and he has done this by his own power. A has therefore used force to Z; and as A has acted thus intentionally, witho consent, in order to the commission of an offence, A has used criminal force to Z.

(*d*) A intentionally pushes against Z in the street. Here A has by his own bodily moved his own person so as to bring it into contact with Z. He has therefore intentionally force to Z; and if he has done so without Z's consent, intending or knowing it to be likel he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

(*e*) A throws a stone, intending or knowing it to be likely that the stone will be thus br into contact with Z, or with Z's clothes, or with something carried by Z, or that it will water, and dash up the water against Z's clothes or something carried by Z. H the throwing of the stone produce the effect of causing any substance to come into co with Z, or Z's clothes, A has used force to Z; and if he did so without Z's consent, inte thereby to injure, frighten or annoy Z, he has used criminal force to Z.

(*f*) A intentionally pulls up a woman's veil. Here A intentionally uses force to her if he does so without her consent intending or knowing it to be likely that he may thereby i frighten or annoy her, he has used criminal force to her.

(*g*) Z is bathing. A pours into the bath water which he knows to be boiling. H intentionally by his own bodily power causes such motion in the boiling water as brings water into contact with Z, or with other water so situated that such contact must affe sense of feeling. A has therefore intentionally used force to Z; and if he has done this wi Z's consent intending or knowing it to be likely that he may thereby cause injury, fe annoyance to Z, A has used criminal force.

(*h*) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to injury, fear or annoyance to Z, he uses criminal force to Z.

Assault.

351. Whoever makes any gesture, or any preparation intending or kno it to be likely that such gesture or preparation will cause any person prese apprehend that he who makes that gesture or preparation is about to criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the w which a person uses may give to his gestures or preparation such a mea as may make those gestures or preparations amount to an assault.

Illustrations.

(*a*) A shakes his fist at Z, intending or knowing it to be likely that he may thereby ca to believe that A is about to strike Z. A has committed an assault.

(*b*) A begins to unloose the muzzle of a ferocious dog, intending, or knowing it to be l that he may thereby cause Z to believe that he is about to cause the dog to attack Z. committed an assault upon Z.

(*c*) A takes up a stick, saying to Z, "I will give you a beating". Here, though the v used by A could in no case amount to an assault, and though the mere gesture, unaccomp by any other circumstances, might not amount to an assault, the gesture explained by the v may amount to an assault.

Punishment for assault or criminal force otherwise than on grave provocation.

352. Whoever assaults or uses criminal force to any person other than on grave and sudden provocation given by that person, shall be puni with imprisonment of either description for a term which may extend to t months, or with fine which may extend to five hundred rupees, or with bo

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

Assault or criminal force to deter public servant from discharge of his duty.

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force to woman with intent to outrage her modesty.

354. Whoever assaults or uses criminal force to any woman intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Assault or criminal force with intent to dishonour person, otherwise than on grave provocation

355. Whoever assaults or uses criminal force to any person intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt to commit theft of property carried by a person.

356. Whoever assaults or uses criminal force to any person in attempting to commit theft on any property which that person is then wearing or carrying shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt wrongfully to confine a person.

357. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Assault or criminal force on grave provocation

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both.

Explanation.—The last section is subject to the same explanation as section 352.

(*Chapter XVI.—Of Offences affecting the Human Body.*)

Of Kidnapping, Abduction, Slavery and Forced Labour.

Kidnapping.

359. Kidnapping is of two kinds: kidnapping from British India, and kidnapping from lawful guardianship.

Kidnapping from British India.

360. Whoever conveys any person beyond the limits of British India without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from British India.

Kidnapping from lawful guardianship.

361. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation.—The words "lawful guardian" in this section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

Abduction.

362. Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

Punishment for kidnapping.

363. Whoever kidnaps any person from British India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting in order to murder.

364. Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation for life or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(*a*) A kidnaps Z from British India, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

(*b*) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

Kidnapping or abducting with intent secretly and wrongfully to confine person.

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping, abducting or inducing woman to compel her marriage, etc.

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description

for a term which may extend to ten years, and shall also be liable to fine; [1][and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.]

[2][**366A.** Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.] *Procuration of minor girl.*

[2][**366B.** Whoever imports into British India from any country outside India any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, *Importation of girl from foreign country.*

and whoever with such intent or knowledge imports into British India from any State in India any such girl who has with the like intent or knowledge been imported into India, whether by himself or by another person,

shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.]

367. Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. *Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.*

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement. *Wrongfully concealing or keeping in confinement, kidnapped or abducted person.*

369. Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. *Kidnapping or abducting child under ten years with intent to steal from its person.*

370. Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. *Buying or disposing of any person as a slave.*

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[1] Ins. by the Indian Penal Code (Amendment) Act, 1923 (20 of 1923), s. 2.
[2] Ins. by ibid., s. 3.

(*Chapter XVI.—Of Offences affecting the Human Body.*)

Habitual dealing in slaves.

371. Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Selling minor for purposes of prostitution, etc.

372. Whoever sells, lets to hire, or otherwise disposes of any [1][person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

[2][*Explanation I.*—When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

Explanation II.—For the purposes of this section "illicit intercourse" means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a *quasi*-marital relation.]

Buying minor for purposes of prostitution, etc.

373. Whoever buys, hires or otherwise obtains possession of any [1][person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

[3][*Explanation I.*—Any prostitute or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

Explanation II.—'Illicit intercourse' has the same meaning as in section 372.]

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[1] Subs. by section 2 of the Indian Criminal Law Amendment Act, 1924 (18 of 1924), for "minor under the age of eighteen years with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be". The word "eighteen" was previously subs. for the word "sixteen" by section 2 of the Indian Penal Code (Amendment) Act, 1924 (5 of 1924).

[2] Ins. by the Indian Criminal Law Amendment Act, 1924 (18 of 1924), s. 3.

[3] Ins. by *ibid*, s. 4.

374. Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Unlawful compulsory labour.

Of Rape

375. A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:— Rape.

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under [1][fourteen] years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under [1][thirteen] years of age, is not rape.

376. Whoever commits rape shall be punished with transportation for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine [2][unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.] Punishment for rape.

Of Unnatural Offences

377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Unnatural offences.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

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[1] Subs. by section 2 of the Indian Penal Code (Amendment) Act, 1925 (29 of 1925) for "twelve" which was previously subs. for "ten" by the Indian Criminal Law Amendment Act, 1891 (10 of 1891).

[2] Ins. by the Indian Penal Code (Amendment) Act, 1925 (29 of 1925), s. 2.

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CHAPTER XVII.

OF OFFENCES AGAINST PROPERTY.

Of Theft.

Theft.

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving effected by the same act which effects the severance may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations.

(*a*) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree in order to such taking, he has committed theft.

(*b*) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(*c*) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(*d*) A being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(*e*) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(*f*) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(*g*) A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(*h*) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(*i*) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(*j*) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(*k*) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property inasmuch as he takes it dishonestly.

(*l*) A takes an article belonging to Z out of Z's possession without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(*m*) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(*n*) A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z her husband. Here it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(*o*) A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(*p*) A, in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

379. Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Punishment for theft.

380. Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Theft in dwelling house, etc.

381. Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Theft by clerk or servant of property in possession of master.

382. Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft.

Illustrations

(*a*) A commits theft on property in Z's possession; and while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this section.

(*b*) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this section.

Of Extortion

383. Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put Extortion.

in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits "extortion".

Illustrations.

(*a*) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(*b*) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain money to A. Z signs and delivers the note. A has committed extortion.

(*c*) A threatens to send club-men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(*d*) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

Punishment for extortion.

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Putting person in fear of injury in order to commit extortion.

385. Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Extortion by putting a person in fear of death or grievous hurt.

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Putting person in fear of death or of grievous hurt, in order to commit extortion.

387. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Extortion by threat of accusation of an offence punishable with death or transportation, etc.

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under section 377 of this Code, may be punished with transportation for life.

Putting person in fear of accusation of offence, in order to commit extortion.

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit, an offence punishable with death or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable

to fine; and, if the offence be punishable under section 377 of this Code, may be punished with transportation for life.

Of Robbery and Dacoity.

Robbery.

390. In all robbery there is either theft or extortion.

When theft is robbery.

Theft is "robbery" if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

When extortion is robbery.

Extortion is "robbery" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person, or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations

(*a*) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(*b*) A meets Z on the high road, shows a pistol, and demands Z's purse. Z in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

[illegible]
it [illegible]
A [illegible]
is t [illegible]

(*d*) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees." This is extortion, and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

Dacoity.

391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity".

Punishment for robbery.

392. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

Attempt to commit robbery.

393. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

(Chapter XVII.—Of Offences against Property.)

Voluntarily causing hurt in committing robbery.

394. If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for dacoity.

395. Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Dacoity with murder.

396. If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Robbery or dacoity, with attempt to cause death or grievous hurt.

397. If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

Attempt to commit robbery or dacoity when armed with deadly weapon.

398. If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

Making preparation to commit dacoity.

399. Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to gang of dacoits.

400. Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to gang of thieves.

401. Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of *thugs* or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Assembling for purpose of committing dacoity.

402. Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Of Criminal Misappropriation of Property.

Dishonest misappropriation of property.

403. Whoever dishonestly misappropriates or converts to his own use any moveable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Illustrations.

(*a*) A takes property belonging to Z out of Z's possession in good faith, believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section

(*b*) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away [illegible]

(*c*) A and B, being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But, if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

Illustration.

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this section

Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means or what is a reasonable time in such a case, is a question of fact

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the real owner cannot be found

Illustrations.

(*a*) A finds a rupee on the high-road, not knowing to whom the rupee belongs. A picks up the rupee Here A has not committed the offence defined in this section.

(*b*) A finds a letter on the road, containing a bank note From the direction and contents of the letter he learns to whom the note belongs He appropriates the note He is guilty of an offence under this section

(*c*) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque But the name of the person, who has drawn the cheque, appears A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner He is guilty of an offence under this section

(*d*) A sees Z drop his purse with money in it A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use A has committed an offence under this section.

(*e*) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

(*f*) A finds a valuable ring, not knowing to whom it belongs A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section.

Dishonest misappropriation of property possessed by deceased person at the time of his death.

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine; and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration.

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

Of Criminal Breach of Trust.

Criminal breach of trust.

405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust".

Illustrations.

(*a*) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(*b*) A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse-room. A dishonestly sells the goods. A has committed criminal breach of trust.

(*c*) A, residing in Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A, according to Z's direction. Z remits a lakh of rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions and employs the money in his own business. A has committed criminal breach of trust.

(*d*) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead of buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A, on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(*e*) A, a revenue-officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(*f*) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

Punishment for criminal breach of trust.

406. Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

(*Chapter XVII.—Of Offences against Property.*)

Criminal breach of trust by carrier, etc.

407. Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by clerk or servant.

408. Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by public servant, or by banker, merchant or agent.

409. Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Of the Receiving of Stolen Property.

Stolen property.

410. Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which [1]* * * criminal breach of trust has been committed, is designated as "stolen property", [2][whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without British India]. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

Dishonestly receiving stolen property.

411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Dishonestly receiving property stolen in the commission of a dacoity.

412. Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

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[1] The word "the" before the words "offence of" was rep. by the Amending Act, 1891 (12 of 1891), and the words "offence of" were rep. by s. 9 of the Indian Penal Code Amendment Act, 1882 (8 of 1882).

[2] Ins. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 9.

(*Chapter XVII.—Of Offences against Property.*)

Habitually dealing in stolen property.

413. Whoever habitually receives or deals in property which he know or has reason to believe to be stolen property, shall be punished with tran portation for life, or with imprisonment of either description for a term whic may extend to ten years, and shall also be liable to fine.

Assisting in concealment of stolen property.

414. Whoever voluntarily assists in concealing or disposing of or makin away with property which he knows or has reason to believe to be stole property, shall be punished with imprisonment of either description for term which may extend to three years, or with fine, or with both.

Of Cheating.

Cheating.

415. Whoever, by deceiving any person, fraudulently or dishonestl induces the person so deceived to deliver any property to any person, or t consent that any person shall retain any property, or intentionally induce the person so deceived to do or omit to do anything which he would not d or omit if he were not so deceived, and which act of omission causes or i likely to cause damage or harm to that person in body, mind, reputation o property, is said to "cheat".

Explanation.—A dishonest concealment of facts is a deception within th meaning of this section.

Illustrations.

(*a*) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thu dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(*b*) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belie that this article was made by a certain celebrated manufacturer, and thus dishonestly induce Z to buy and pay for the article. A cheats.

(*c*) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believ ing that the article corresponds with the sample, and thereby dishonestly induces Z to bu and pay for the article. A cheats.

(*d*) A, by tendering in payment for an article a bill on a house with which A keeps no money and by which A expects that the bill will be dishonoured, intentionally deceives Z, and there by dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(*e*) A, by pledging as diamonds articles which he knows are not diamonds, intentionall deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(*f*) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(*g*) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(*h*) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(*i*) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

Cheating by personation.

416. A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person

for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

417. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Punishment for cheating.

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound either by law, or by legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.

419. Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Punishment for cheating by personation.

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Cheating and dishonestly inducing delivery of property.

Of Fraudulent Deeds and Dispositions of Property

421. Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Dishonestly or fraudulently preventing debt being available for creditors.

Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.

423. Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property.

424. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Of Mischief.

Mischief.

425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief".

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations.

(*a*) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief.

(*b*) A introduces water into an ice-house belonging to Z and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(*c*) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(*d*) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(*e*) A having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(*f*) A causes a ship to be cast away, intending thereby to cause damage to Z who has lent money on bottomry on the ship. A has committed mischief.

(*g*) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(*h*) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

Punishment for mischief.

426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Mischief causing damage to the amount of fifty rupees.

427. Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming animal of the value of ten rupees.

428. Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.

429. Whoever commits mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to works of irrigation or by wrongfully diverting water.

430. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to public road, bridge, river or channel.

431. Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by causing inundation or obstruction to public drainage attended with damage.

432. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by destroying, moving or rendering less useful a light-house or sea-mark.

433. Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying or moving, etc., a land-mark

434. Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either

fixed by public authority. description for a term which may extend to one year, or with fine, or with both.

Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.

435. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards [1][or (where the property is agricultural produce) ten rupees or upwards], shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

Mischief by fire or explosive substance with intent to destroy house, etc.

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.

437. Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for the mischief described in section 437 committed by fire or explosive substance.

438. Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.

439. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief committed after preparation made for causing death or hurt.

440. Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

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[1] Ins. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 10.

(*Chapter XVII.—Of Offences against Property.*)

Of Criminal Trespass.

441. Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, Criminal trespass.

or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,

is said to commit "criminal trespass."

442. Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass." House-trespass

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443. Whoever commits house trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house-trespass." Lurking house-trespass.

444. Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house trespass by night." Lurking house-trespass by night.

445. A person is said to commit 'house breaking' who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described, or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say :— House-breaking.

First.—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house trespass.

fixed by public authority.

description for a term which may extend to one year, or with fine, or with both.

Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.

435. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards [1][or (where the property is agricultural produce) ten rupees or upwards], shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

Mischief by fire or explosive substance with intent to destroy house, etc.

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.

437. Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for the mischief described in section 437 committed by fire or explosive substance.

438. Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.

439. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief committed after preparation made for causing death or hurt.

440. Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

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[1] Ins. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 10.

(Chapter XVII.—Of Offences against Property.)

Of Criminal Trespass

441. Criminal trespass. Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,

or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,

is said to commit "criminal trespass."

442. House-trespass. Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass."

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443. Lurking house-trespass. Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house-trespass."

444. Lurking house-trespass by night. Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night."

445. House-breaking. A person is said to commit "house-breaking" who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:—

First.—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication is part of the house within the meaning of this section.

Illustrations.

(*a*) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(*b*) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(*c*) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(*d*) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(*e*) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(*f*) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(*g*) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(*h*) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

House-breaking by night.

446. Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night."

Punishment for criminal trespass.

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Punishment for house-trespass.

448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

House-trespass in order to commit offence punishable with death.

449. Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to commit offence punishable with transportation for life.

450. Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to commit offence punishable with imprisonment.

451. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass after preparation

452. Whoever commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully

restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

for hurt, assault or wrongful restraint.

453. Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking.

454. Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.

455. Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.

456. Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking by night.

457. Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.

458. Whoever commits lurking house-trespass by night, or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.

459. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or with

Grievous hurt caused whilst committing ...

lurking house-trespass or house-breaking.

imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.

460. If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Dishonestly breaking open receptacle containing property.

461. Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for same offence when committed by person entrusted with custody.

462. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII.

Of Offences relating to Documents and to Trade or Property Marks.

Forgery.

463. Whoever makes any false document or part of a document, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Making a false document.

464. A person is said to make a false document—

First.—Who dishonestly or fraudulently makes, signs, seals or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed, or at a time at which he knows that it was not made, signed, sealed or executed ; or

Secondly—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration, or

Thirdly—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or the nature of the alteration.

Illustrations

(*a*) A has a letter of credit upon B for rupees 10,000, written by Z. A, in order to defraud B, adds a cipher to the 10,000, and makes the sum 1,00,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(*b*) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B and thereby of obtaining from B the purchase money. A has committed forgery.

(*c*) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.

(*d*) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

(*e*) [illegible] to disco [illegible] Here, as [illegible] had the [illegible]

(*f*) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(*g*) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order", and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(*h*) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(*i*) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(*j*) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(*k*) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations

(*a*) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

(*b*) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B, knowing the fact, draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.

(*c*) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable, here A has committed forgery.

(*d*) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate, to Z at a nominal rent and for a long period and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(*e*) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration.

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

Punishment for forgery.

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Forgery of record of Court or of public register, etc.

466. Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery of valuable security, will, etc.

467. Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, moveable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Forgery for purpose of cheating.

468. Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of

either description for a term which may extend to seven years and shall also be liable to fine

Forgery for purpose of harming reputation

469. Whoever commits forgery intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine

Forged document

470 A false document made wholly or in part by forgery is designated "a forged document"

Using as genuine a forged document

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document shall be punished in the same manner as if he had forged such document

Making or possessing counterfeit seal etc, with intent to commit forgery punishable under sec 467

472. Whoever makes or counterfeits any seal plate or other instrument for making an impression intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code, or, with such intent has in his possession any such seal plate or other instrument knowing the same to be counterfeit shall be punishable with transportation for life or with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine

Making or possessing counterfeit seal etc with intent to commit forgery punishable otherwise

473 Whoever makes or counterfeits any seal, plate or other instrument for making an impression intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this chapter other than section 467 or with such intent has in his possession any such seal plate or other instrument knowing the same to be counterfeit shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Having possession of document described in section 466 or 467 knowing it to be forged and intending to use it as genuine

474 Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine shall if the document is one of the description mentioned in section 466 of this Code be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, and if the document is one of the description mentioned in section 467, shall be punished with transportation for life, or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine

Counterfeiting device or mark used for authenticating documents described in section 467 or possessing counterfeit marked material

475. Whoever counterfeits upon or in the substance of, any material any device or mark used for the purpose of authenticating any document described in section 467 of this Code intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material or who with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited shall be punished with transportation for life or with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine

Selling goods marked with a counterfeit trade mark or property mark.

[1]486. Whoever sells, or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or thing with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(*a*) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(*b*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(*c*) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making a false mark upon any receptacle containing goods.

[1]487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

[1]488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Tampering with property mark with intent to cause injury.

[1]489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

Of Currency-Notes and Bank-Notes.

Counterfeiting currency-notes or bank-notes.

[2][489A. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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[1] *See foot note 2 on p. 342.*

[2] Ins. by the Currency Notes Forgery Act, 1899 (12 of 1899), s. 2.

Explanation—For the purposes of this section and of sections 489B 489C and 489D, the expression "bank note" means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to or as a substitute for money

Using as genuine, forged or counterfeit currency notes or bank notes

[1]**489B** Whoever sells to, or buys or receives from any other person or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with transportation for life or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine

Possession of forged or counterfeit currency notes or bank notes

[1]**489C** Whoever has in his possession any forged or counterfeit currency-note or bank note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years or with fine or with both

Making or possessing instruments or materials for forging or counterfeiting currency notes or bank notes

[1]**489D.** Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession any machinery, instrument or material for the purpose of being used or knowing or having reason to believe that it is intended to be used for forging or counterfeiting any currency note or bank note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine]

CHAPTER XIX

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

490. [*Breach of contract of service during voyage or journey*] *Rep by the Workmen's Breach of Contract (Repealing) Act 1925 (III of 1925) s 2 and Sch*

Breach of contract to attend on and supply wants of helpless person.

491 Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness is helpless or incapable of providing for his own safety or of supplying his own wants voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both

492. [*Breach of contract to serve at distant place to which servant is conveyed at master's expense*] *Rep by the Workmen's Breach of Contract (Repealing) Act, 1925 (III of 1925) s 2 and Sch*

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[1] Ins by the Currency Notes Forgery Act 1899 (12 of 1899) s 2

CHAPTER XX.

Of Offences relating to Marriage.

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

493. Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marrying again during lifetime of husband or wife.

494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.

495. Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marriage ceremony fraudulently gone through without lawful marriage.

496. Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Adultery.

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

498. Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Enticing or taking away or detaining with criminal intent a married woman.

CHAPTER XXI

OF DEFAMATION.

499. Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person. Defamation.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations

(a) A says—"Z is an honest man; he never stole B's watch;" intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.

(b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

First Exception.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact. Imputation of truth which public good requires to be made or published.

CHAPTER XX.

OF OFFENCES RELATING TO MARRIAGE.

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

493. Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marrying again during lifetime of husband or wife.

494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.

495. Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marriage ceremony fraudulently gone through without lawful marriage.

496. Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Adultery.

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

498. Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Enticing or taking away or detaining with criminal intent a married woman.

CHAPTER XXI

Of Defamation

499. Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person. Defamation.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustration

(a) A says—"Z is an honest man; he never stole B's watch"; intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.

(b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

First Exception.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact. Imputation of truth which public good requires to be made or published.

(Chapter XXI.—Of Defamation.)

Public conduct of public servants.

Second Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Conduct of any person touching any public question.

Third Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Illustration.

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Publication of reports of proceedings of Courts.

Fourth Exception.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Merits of case decided in Court or conduct of witnesses and others concerned.

Fifth Exception.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Illustrations.

(*a*) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no further.

(*b*) But if A says—"I do not believe what Z asserted at that trial because I know him to be a man without veracity, A is not within this exception, inasmuch as the opinion which he expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

Merits of public performance.

Sixth Exception.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations.

(*a*) A person who publishes a book, submits that book to the judgment of the public.

(*b*) A person who makes a speech in public, submits that speech to the judgment of the public.

(*Chapter XXI.—Of Defamation.*)

(*c*) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(*d*) A says of a book published by Z—"Z's book is foolish: Z must be a weak man. Z's book is indecent; Z must be a man of impure mind." A is within this exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no further.

(*e*) But if A says—"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine." A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Seventh Exception.—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Censure passed in good faith by person having lawful authority over another.

Illustration

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this exception.

Eighth Exception.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Accusation preferred in good faith to authorised person.

Illustration

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception.

Ninth Exception.—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person, or for the public good.

Imputation made in good faith by person for protection of his or other's interests.

Illustrations

(*a*) A, a shopkeeper, says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(*b*) A, a Magistrate, in making a report to his own superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

Tenth Exception.—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

Caution intended for good of person to whom conveyed or for public good.

500. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Punishment for defamation.

Printing or engraving matter known to be defamatory.

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Sale of printed or engraved substance containing defamatory matter.

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CHAPTER XXII.

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

Criminal intimidation.

503. Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration.

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

Intentional insult with intent to provoke breach of the peace.

504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Statements conducing to public mischief.

[1]**505.** Whoever makes, publishes or circulates any statement, rumour or report,—

(*a*) with intent to cause, or which is likely to cause, any officer, soldier, [2][sailor or airman] in the Army, [3][Navy or Air Force] of Her Majesty [4]* * * or in the Imperial Service Troops to mutiny or otherwise disregard or fail in his duty as such ; or

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[1] Subs. by the Indian Penal Code Amendment Act, 1898 (4 of 1898), s. 6, for original section.

[2] Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I. for "or sailor".

[3] Subs. by *ibid* "or navy".

[4] The words "for in the Royal Indian Marine" rep. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

(*b*) with intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or

(*c*) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Exception.—It does not amount to an offence within the meaning of this section when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid.

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; *Punishment for criminal intimidation.*

and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. *If threat be to cause death or grievous hurt, etc.*

507. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section. *Criminal intimidation by an anonymous communication.*

508. Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. *Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.*

Illustrations.

(*a*) A sits dhurna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

(*b*) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

Word, gesture or act intended to insult the modesty of a woman.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Misconduct in public by a drunken person.

510. Whoever, in a state of intoxication appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.

CHAPTER XXIII.

OF ATTEMPTS TO COMMIT OFFENCES.

Punishment for attempting to commit offences punishable with transportation or imprisonment.

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence, for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(*a*) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(*b*) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

[1][THE POLICE ACT, 1861.]

CONTENTS

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[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897)

SECTIONS.

FORM.

Act No. V of 1861.[1]

[*22nd March, 1861.*]

An Act for the Regulation of Police.

Whereas it is expedient to re-organize the police and to make it a more efficient instrument for the prevention and detection of crime; It is enacted as follows :— Preamble.

1. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say,— Interpretation-clause.

[2] the words "Magistrate of the district" shall mean the chief officer charged with the executive administration of a district and exercising the powers of a Magistrate, by whatever designation the chief officer charged with such executive administration is styled :

the word "Magistrate" shall include all persons within the general police-district, exercising all or any of the powers of a Magistrate :

the word "police" shall include all persons who shall be enrolled under this Act :

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[1] This Act has been applied to—

the Sánthal Parganas by the Sánthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3;

the Town of Calcutta and its suburbs as modified by the Calcutta Police Act, 1898 (Ben. 1 of 1898);

the Chittagong Hill Tracts by the Chittagong Hill Tracts Regulation, 1900 (1 of 1900);

British Baluchistan by the British Baluchistan Laws Regulation, 1913 (3 of 1913), s. 3;

the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and

the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 [illegible] t of Hazari- [illegible] (4) and Man- [illegible] Gazette of India, 1881, Pt. I, p. 504, and the Porahat Estate in the Singbhum District, *see* Gazette of India, 1897, Pt. I, p. 1059.

It has been extended, by notification under s. 5 of the same Act, to the Kumaon and Garhwal Districts, *see* Gazette of India, 1891, Pt. I, p. 185, and (with the exception of s. 5) to the Scheduled District of Coorg, *see* Gazette of India, 1914, Pt. II, p. 2347. Ss. 15, 15A, 16, 30, 30A, 31 and 32 have been extended to the Scheduled Districts in Ganjam and Vizagapatam, *see* Fort St. George Gazette, 1898, Pt. I, p. 667, and Gazette of India, 1898, Pt. I, p. 873. The whole Act has been extended to the Amindivi Islands attached to the South Kanara District; *see* Fort St. George Gazette, 1935, Pt. I, p. 1292.

As to special enactments in force in Madras, Bombay and Lower Provinces of Bengal, and extensions of this Act under the power conferred by s. 46, *see* notes to that section.

As to special enactments for Military, Frontier or Rural Police in force in certain parts of British India, *see* note to s. 8.

As to the creation of special police-districts embracing parts of two or more Provinces and the extension to every part thereof the powers and jurisdiction of members of a police force belonging to any part of British India, *see* the Police Act, 1888 (3 of 1888).

[2] *Cf.* also s. 3 (2) of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

the words "general police-district" shall embrace any[1] presidency, province or place, or any part of any presidency, province or place, in which this Act shall be ordered to take effect :

[2][the words "District Superintendent" and "District Superintendent of Police" shall include any Assistant District Superintendent or other person appointed by general or special order of the [3][Provincial Government] to perform all or any of the duties of a District Superintendent of Police under this Act in any district :]

the word "property" shall include any moveable property, money or valuable security :

[4]* * * * *

the word "person" shall include a company or corporation :

the word "month" shall mean a calendar month :

[5]the word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

[6][References to the subordinate ranks of a police force shall be construed as references to members of that force below the rank of Deputy Superintendent.]

Constitution of the force.

[7]**2.** The entire police-establishment under a [3][Provincial Government] shall, for the purposes of this Act, be deemed to be one [8]police force, and shall be formally enrolled; and shall consist of such number of officers and men, and shall be constituted in such manner, [9]* * * as shall from time to time be ordered by the [3][Provincial Government] [10]* * *.

[6][Subject to the provisions of this Act the pay and all other conditions of service of members of the subordinate ranks of any police force shall be such as may be determined by the Provincial Government.]

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[1] Under s. 2 of the Police Act, 1888 (3 of 1888), the Central Government may, notwithstanding this provision, create a special police-district, consisting of parts of two or more Provinces.

The Chittagong Hill Tracts have been declared to be a general police-district for the purposes of this Act, *see* the Chittagong Hill Tracts Regulation, 1900 (1 of 1900), s. 16.

The N.-W. F. P. has been declared to be a general police-district for the purposes of this Act, *see* the N.-W. F. P. Law and Justice Regulation, 1901 (7 of 1901), s. 13.

As to Delhi Province, *see* Gazette of India, 1912, Pt. I, p. 1105.

[2] Ins. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 1.

[3] Subs. by the A. O. for "L. G.".

[4] The clauses relating to "number" and "gender" rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

[5] *Cf.* definition of "cattle" in s. 3 of the Cattle-trespass Act, 1871 (1 of 1871).

[6] Ins. by the A. O.

[7] S. 2, so far as it relates to the provinces under the administration of the Lieutenant-Governor of Bengal, rep. by the Bengal Police Act, 1869 (Ben. 7 of 1869).

[8] *See* note appended to s. 8, *infra*, as to enrolment of the police force in certain places.

[9] The words "and the members of such force shall receive such pay" rep. by the A. O.

[10] The words "subject in the case of officers of the Indian Police of and above the rank of Assistant Superintendent to the control of the G. G. of India in C." rep. by the A. O.

3 The superintendence of the police throughout a general police-district shall vest in and [1] * * * * * * * * * shall be exercised by the [2][Provincial Government] to which such district is subordinate, and, except as authorised under the provisions of this Act, no person, officer or Court shall be empowered by the [2][Provincial Government] to [3] * * supersede or control any police functionary

Superintendence in the Provincial Government

4 [4]The administration of the police throughout a general police-district shall be vested in an officer to be styled the Inspector General of Police and in such Deputy Inspectors General and Assistant Inspectors General as to the [2][Provincial Government] shall seem fit

Inspector General of Police, etc

The administration of the police throughout the local jurisdiction of the Magistrate of the district shall, under the general control and direction of such Magistrate, be vested in a District Superintendent and such Assistant District Superintendents as the [2][Provincial Government] shall consider necessary

[5] * * * * * * * * *

5 The Inspector General of Police shall have the full powers of a Magistrate throughout the general police-district, but shall exercise those powers subject to such limitation as may from time to time be imposed by the [2][Provincial Government]

Powers of Inspector General. Exercise of powers

6 [*Magisterial powers of police-officers*] *Rep by the Code of Criminal Procedure, 1882 (Act X of 1882)*

7. [6][Subject to such rules as the Provincial Government may from time to time make under this Act the Inspector General Deputy Inspectors General, Assistant Inspectors General and District Superintendents of Police may at any time dismiss suspend or reduce any police officer of the subordinate ranks] whom they shall think remiss or negligent in the discharge of his duty, or unfit for the same,

Appointment, dismissal, etc., of inferior officers.

[7][or may award any one or more of the following punishments to any police officer [8][of the subordinate ranks] who shall discharge his duty in a careless

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[1] The words "subject in the case of officers of the Indian Police of and above the rank of Assistant Superintendent to the general control of the G. G. of India in C." rep. by the A. O.

[2] Subs. by the A. O. for "L. G."

[3] The word "appoint" rep. by the A. O.

[4] In the town and suburbs of Calcutta the administration of the Police vests in the Commissioner of Police. See s. 3 of the Calcutta Police Act, 1866 (Ben. 4 of 1866).

[5] The sentence "The Inspector General and other officers above mentioned shall from time to time be appointed by the L. G. and may be removed by the same authority" was rep. by the A. O.

[6] Subs. by the A. O. for "The appointment of all police officers other than those mentioned in section 4 of this Act shall, under such rules as the L. G. shall from time to time sanction, rest with the Inspector General, Deputy Inspectors General, Assistant Inspectors General and District Superintendents of Police, who may under such rules as aforesaid at any time dismiss, suspend or reduce any police officer".

[7] The second paragraph of s. 7 was substituted for the words [illegible] by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 2.

[8] Ins. by the A. O.

or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof, namely :—

(*a*) fine to any amount not exceeding one month's pay ;

(*b*) confinement to quarters for a term not exceeding fifteen days, with or without punishment drill, extra guard, fatigue or other duty ;

(*c*) deprivation of good-conduct pay ;

(*d*) removal from any office of distinction or special emolument.]

Certificates to police-officers.

8. [1]Every police-officer [2][appointed to the police force other than an officer mentioned in section 4] shall receive on his appointment a certificate in the form annexed to this Act, under the seal of the Inspector-General or such other officer as the Inspector-General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions and privileges of a police-officer.

Surrender of certificate.

[3][Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a police-officer, and, on his ceasing to be such an officer, shall be forthwith surrendered by him to any officer empowered to receive the same.

A police-officer shall not by reason of being suspended from office cease to be a police-officer. During the term of such suspension the powers, functions and privileges vested in him as a police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended.]

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[1] As to enrolment, maintenance and discipline of—

(1) the Military Police-force employed in—

(*a*) the Andaman and Nicobar Islands, *see* the Andaman and Nicobar Islands Military Police Regulation, 1888 (2 of 1888), Gazette of India, 1888, Pt. I, p. 391 ;

(*b*) Assam, *see* the Assam Rifles Act, 1920 (Assam 1 of 1920), Assam Code ;

(*c*) Bengal, *see* the Eastern Frontier Rifles (Bengal Battalion) Act, 1920 (Ben. 2 of 1920);

(2) the Chittagong Hill Tracts Frontier Police, *see* the Chittagong Hill Tracts Frontier Police Regulation, 1881 (3 of 1881);

(3) the Punjab Frontier Police-officers, *see* the Punjab Frontier Police-officers Regulation, 1893 (7 of 1893) ;

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(5) the Police establishment in municipal areas in the U. P., *see* the U. P. Municipalities Act, 1916 (U. P. 2 of 1916) ;

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(7) the Rural Police in the Sánthal Parganas, *see* the Sánthal Parganas Rural Police Regulation, 1910 (4 of 1910) ;

(8) the Rural Police in Chota Nagpur, *see* the Chota Nagpur Rural Police Act, 1914 (B. & O. 1 of 1914) ;

(9) the Rural Police in the Districts of Cachar and Sylhet, *see* the Sylhet and Cachar Rural Police Regulation, 1883 (1 of 1883).

[2] Subs. by the A. O. for " so appointed " .

[3] These two paragraphs were subs. for the original paragraph by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 3.

9. No police-officer shall be at liberty to withdraw himself from the duties of his office, unless expressly allowed to do so by the District Superintendent or by some other officer authorized to grant such permission, or, without the leave of the District Superintendent, to resign his office, unless he shall have given to his superior officer notice in writing, for a period of not less than two months, of his intention to resign — Police-officer not to resign without leave or two months' notice.

10. No police officer shall engage in any employment or office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector General — Police-officers not to engage in other employment.

11. [*Police superannuation fund*.] *Rep. by the Repealing Act, 1871* (XVI *of 1871*).

12. The Inspector General of Police may, from time to time, subject to the approval of the [1][Provincial Government], frame such orders and rules as he shall deem expedient relative to the organization, classification and distribution of the police force, the places at which the members of the force shall reside, and the particular services to be performed by them, their inspection, the description of arms, accoutrements and other necessaries to be furnished to them, the collecting and communicating by them of intelligence and information, and all such other orders and rules relative to the police force as the Inspector-General shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such force efficient in the discharge of its duties — Power of Inspector-General to make rules.

13. It shall be lawful for the Inspector General of Police, or any Deputy Inspector-General, or Assistant Inspector General, or for the District Superintendent, subject to the general direction of the Magistrate of the district, on the application of any person showing the necessity thereof, to depute any additional number of police-officers to keep the peace at any place within the general police district, and for such time as shall be deemed proper. Such force shall be exclusively under the orders of the District Superintendent, and shall be at the charge of the person making the application — Additional police officers employed at cost of individuals.

Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector-General, Deputy Inspector General or Assistant Inspector-General, or to the District Superintendent, to require that the police-officers so deputed shall be withdrawn, and such person shall be relieved from the charge of such additional force from the expiration of such notice.

14. Whenever any railway, canal or other public work, or any manufactory or commercial concern shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector-General that the employment of an additional police force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory or concern, it shall be lawful for the Inspector-General, with the consent of the [1][Provincial Government], to depute such additional force to such place, and to employ the same so long as such necessity — Appointment of additional force in the neighbourhood of railway and other works.

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[1] Subs. by the A. O. for "L. G."

or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof, namely :—

(a) fine to any amount not exceeding one month's pay ;

(b) confinement to quarters for a term not exceeding fifteen days, with or without punishment drill, extra guard, fatigue or other duty ;

(c) deprivation of good-conduct pay ;

(d) removal from any office of distinction or special emolument.]

Certificates to police-officers.

8. [1]Every police-officer [2][appointed to the police force other than an officer mentioned in section 4] shall receive on his appointment a certificate in the form annexed to this Act, under the seal of the Inspector-General or such other officer as the Inspector-General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions and privileges of a police-officer.

Surrender of certificate.

[3][Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a police-officer, and, on his ceasing to be such an officer, shall be forthwith surrendered by him to any officer empowered to receive the same.

A police-officer shall not by reason of being suspended from office cease to be a police-officer. During the term of such suspension the powers, functions and privileges vested in him as a police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended.]

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[1] As to enrolment, maintenance and discipline of—

(1) the Military Police-force employed in—

(a) the Andaman and Nicobar Islands, *see* the Andaman and Nicobar Islands Military Police Regulation, 1888 (2 of 1888), Gazette of India, 1888, Pt. I, p. 391 ;

(b) Assam, *see* the Assam Rifles Act, 1920 (Assam 1 of 1920), Assam Code ;

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Police-officers not to resign without leave or two months' notice.

10. No police officer shall engage in any employment or office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector General.

Police-officers not to engage in other employment.

11. [*Police superannuation fund.*] *Rep. by the Repealing Act, 1874* (XVI *of 1874*).

12. The Inspector General of Police may, from time to time, subject to the approval of the [1][Provincial Government], frame such orders and rules as he shall deem expedient relative to the organization, classification and distribution of the police force, the places at which the members of the force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accoutrements and other necessaries to be furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the police force as the Inspector General shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such force efficient in the discharge of its duties.

Power of Inspector General to make rules.

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Additional police-officers employed at cost of individuals.

Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector General, Deputy Inspector General or Assistant Inspector General, or to the District Superintendent, to require that the police-officers so deputed shall be withdrawn; and such person shall be relieved from the charge of such additional force from the expiration of such notice.

14. Whenever any railway, canal or other public work, or any manufactory or commercial concern shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector General that the employment of an additional police force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory or concern, it shall be lawful for the Inspector General, with the consent of the [1][Provincial Government], to depute such additional force to such place, and to employ the same so long as such necessity

Appointment of additional force in the neighbourhood of railway and other works.

[1] Subs. by the A. O. [illegible]

or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof, namely :—

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12. The Inspector-General of Police may, from time to time, subject to the approval of the [1][Provincial Government], frame such orders and rules as he shall deem expedient relative to the organization, classification and distribution of the police force, the places at which the members of the force shall reside, and the particular services to be performed by them, their inspection, the description of arms, accoutrements and other necessaries to be furnished to them, the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the police force as the Inspector General shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such force efficient in the discharge of its duties. *Power of Inspector General to make rules.*

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Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector General, Deputy Inspector General or Assistant Inspector-General, or to the District Superintendent, to require that the police officers so deputed shall be withdrawn, and such person shall be relieved from the charge of such additional force from the expiration of such notice.

14. Whenever any railway, canal or other public work, or any manufactory or commercial concern shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector General that the employment of an additional police force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory or concern, it shall be lawful for the Inspector-General, with the consent of the [1][Provincial Government], to depute such additional force to such place, and to employ the same so long as such necessity *Appointment of additional force in the neighbourhood of railway and other works.*

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[1] Subs. by the A. O. for "L. G."

shall continue, and to make orders, from time to time, upon the person having the control or custody of the funds used in carrying on such work, manufactory or concern, for the payment of the extra force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

Quartering of additional police in disturbed or dangerous districts.

[1][**15.** (*1*) It shall be lawful for the [2][Provincial Government], by proclamation to be notified in the Official Gazette, and in such other manner as the [2][Provincial Government] shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police.

(*2*) It shall thereupon be lawful for the Inspector-General of Police, or other officer authorized by the [2][Provincial Government] in this behalf, with the sanction of the [2][Provincial Government], to employ any police-force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid.

(*3*) Subject to the provisions of sub-section (*5*) of this section, the cost of such additional police-force shall be borne by the inhabitants of such area described in the proclamation.

(*4*) The Magistrate of the district, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are, as aforesaid, liable to bear the same and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to the Magistrate's judgment of the respective means within such area of such inhabitants.

(*5*) It shall be lawful for the [2][Provincial Government] by order to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost.

(*6*) Every proclamation issued under sub-section (*1*) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the [2][Provincial Government] may in each case think fit to direct.

Explanation.—For the purposes of this section, "inhabitants" shall include persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents direct from raiyats or occupiers in such area, notwithstanding that they do not actually reside therein.]

Awarding compensation to sufferers from misconduct of inhabitants or persons interested in land.

[3][**15A.** (*1*) If, in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them it shall be lawful for any person, being an inhabitant of such area, who claims to have suffer-

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[1] Subs. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 4, for the original section.

[2] Subs. by the A. O. for "L. G.".

[3] Ins. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 5.

ed injury from such misconduct to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the sub-division of a district within which such area is situated

(2) It shall thereupon be lawful for the Magistrate of the district with the sanction of the [1][Provincial Government] after such enquiry as he may deem necessary, and whether any additional police force has or has not been quartered in such area under the last preceding section, to—

(*a*) declare the persons to whom injury has been caused by or has ensued from such misconduct,

(*b*) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them, and

(*c*) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub section

Provided that the Magistrate shall not make any declaration or assessment under this sub section, unless he is of opinion that such injury as aforesaid had arisen from a riot or unlawful assembly within such area, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury

(3) It shall be lawful for the [1][Provincial Government] by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation

(4) Every declaration or assessment made or order passed by the Magistrate of the district under sub section (2) shall be subject to revision by [2][the Commissioner of the Division or] the [1][Provincial Government] but save as aforesaid shall be final

(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section

(6) *Explanation* —In this section the word "inhabitants" shall have the same meaning as in the last preceding section]

[3][16 (*1*) All moneys payable under sections 13 14, 15 and 15A shall be recoverable by the Magistrate of the district in the manner provided by
1882 [4]sections 386 and 387 of the Code of Criminal Procedure, 1882, for the recovery of fines, or by suit in any competent Court

Recovery of moneys payable under sections 13 14 15 and 15A and disposal of same when recovered

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[1] Subs by the A O for "L G"

[2] In the N W F P these words should be omitted, *vide* the N W F P Law and Justice Regulation 1901 (7 of 1901) Sch I

[3] Subs by the Police Act (1861) Amendment Act 1895 (8 of 1895) s. 6 for the original section

[4] *See* now the same sections of the Code of Criminal Procedure 1898 (Act 5 of 1898)

[5] Sub section (2) which read "All moneys paid or recovered under sections 13 14 and 15 shall be credited to a fund to be called The General Police Fund and shall be applied to the maintenance of the police force under such orders as the L G may pass" was rep by the A O See however para. 4 of the India and Burma (Transitory Provisions) Order 1937

(3) All moneys paid or recovered under section 15A shall be paid by the Magistrate of the district to the persons to whom and in the proportions in which the same are payable under that section.]

Special police-officers.

17. When it shall appear that any unlawful assembly, or riot or disturbance of the peace has taken place, or may be reasonably apprehended, and that the police-force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants and the security of property in the place where such unlawful assembly or riot or disturbance of the peace has occurred, or is apprehended, it shall be lawful for any police-officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the residents of the neighbourhood as such police-officers may require to act as special police-officers for such time and within such limits as he shall deem necessary; and the Magistrate to whom such application is made shall, unless he see cause to the contrary, comply with the application.

Powers of special police-officers.

18. Every special police-officer so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of police.

Refusal to serve as special police-officers.

19. If any person being appointed a special police-officer as aforesaid shall without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

Authority to be exercised by police-officers.

[1]**20.** Police-officers enrolled under this Act shall not exercise any authority, except the authority provided for a police-officer under this Act and any Act which shall hereafter be passed for regulating criminal procedure.

Village-police-officers.

21. Nothing in this Act shall affect any hereditary or other village-police-officer, unless such officer shall be enrolled as a police-officer under this Act. When so enrolled, such officer shall be bound by the provisions of the last preceding section. No hereditary or other village-police-officer shall be enrolled without his consent and the consent of those who have the right of nomination.

Police-chaukidars in the Presidency of Fort William.

If any police-officer appointed under [2]Act XX of 1856 (*to make better provision for the appointment and maintenance of Police-chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal*) is employed out of the district for which he shall have been appointed under that Act, he shall not be paid out of the rates levied under the said Act for that district.

Police-officers always on duty and may be employed in any part of district.

22. Every police-officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a police-officer in any part of the general police-district.

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[1] For some cases in which the application of s. 20 has been restricted, *see* the Assam Police-officers Regulation, 1883 (2 of 1883), and s. 2 of the Punjab Frontier Police-officers Regulation, 1893 (7 of 1893).

[2] The Bengal Chaukidari Act, 1856.

23. It shall be the duty of every police-officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate intelligence affecting the public peace, to prevent the commission of offences and public nuisances, to detect and bring offenders to justice and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists, and it shall be lawful for every police-officer, for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking shop, gaming house or other place of resort of loose and disorderly characters

Duties of police officers.

24. It shall be lawful for any police officer to lay any information before a Magistrate, and to apply for a summons, warrant, search warrant or such other legal process as may by law issue against any person committing an offence [1]* * * * * * * *

Police officers may lay information, etc

25. It shall be the duty of every police officer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the district

The police officers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the district

Police officers to take charge of unclaimed property, and be subject to Magistrate's orders as to disposal

26. (*1*) The Magistrate of the district may detain the property and issue a proclamation, specifying the articles of which it consists and requiring any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation

Magistrate may detain property and issue proclamation

[2][(2) The provisions of section 525 of the [3]Code of Criminal Procedure,
1882 1882, shall be applicable to property referred to in this section]

[4][27. (*1*) If no person shall within the period allowed claim such property, or the proceeds thereof, if sold, it may, if not already sold under sub section (2) of the last preceding section, be sold under the orders of the Magistrate of the district

Confiscation of property if no claimant appears

(*2*) The sale proceeds of property sold under the preceding sub section and the proceeds of property sold under section 26 to which no claim has been established shall be [5][at the disposal of the Provincial Government]]

28. Every person, having ceased to be an enrolled police officer under this Act, who shall not forthwith deliver up his certificate and the clothing, accoutrements, appointments and other necessaries which shall have been supplied to him for the execution of his duty, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees or to imprisonment with or without hard labour, for a period not exceeding six months or to both

Penalty for failing to deliver up certificate, etc, on ceasing to be police officer.

[illegible] were rep. by the Code [illegible]

[illegible]

[illegible] section

[5] Subs. by the A. O. for "at the disposal of Govt"

Penalties for neglect of duty, etc.

29. Every police-officer who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months, [1][or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave,] or who shall engage without authority in any employment other than his police-duty, or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment with or without hard labour, for a period not exceeding three months, or to both.

Regulation of public assemblies and processions and licensing of same.

[2][**30.** (*1*) The District Superintendent or Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

(*2*) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect an assembly in any such road, street or thoroughfare, or to form a procession which would, in the judgment of the Magistrate of the district, or of the sub-division of a district, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a license.

(*3*) On such application being made, he may issue a license specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this section: Provided that no fee shall be charged on the application for, or grant of, any such license.

Music in the streets.

(*4*) He may also regulate the extent to which music may be used in the streets on the occasion of festivals and ceremonies.]

Powers with regard to assemblies and processions violating conditions of license.

[3][**30A.** (*1*) Any Magistrate or district Superintendent of Police or Assistant District Superintendent of Police or Inspector of Police or any police-officer in charge of a station may stop any procession which violates the conditions of a license granted under the last foregoing section, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

(*2*) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub-section shall be deemed to be an unlawful assembly.]

Police to keep order in public roads, etc.

31. It shall be the duty of the police to keep order on the public roads, and in the public streets, thoroughfares, ghâts and landing-places, and at all other places of public resort, and to prevent obstructions on the occasions of

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[1] Ins. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 9.
[2] Subs. by *ibid*, s. 10, for the original section.
[3] Ins. by *ibid*, s. 11.

assemblies and processions on the public roads and in the public streets, or in the neighbourhood of places of worship, during the time of public worship, and in any case when any road, street, thoroughfare, ghât or landing place may be thronged or may be liable to be obstructed.

Penalty for disobeying orders issued under last three sections, etc.

32. Every person opposing or not obeying the orders issued under the last [1][three] preceding sections, or violating the conditions of any license granted by the District Superintendent or Assistant District Superintendent of Police for the use of music, or for the conduct of assemblies and processions, shall be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees.

Saving of control of Magistrate of district.

33. Nothing in the last [2][four] preceding sections shall be deemed to interfere with the general control of the Magistrate of the district over the matters referred to therein.

Punishment for certain offences on roads, etc.

34. Any person who, on any road or in any [3][open place or] street or thoroughfare within the limits of any town to which this section shall be specially [4]extended by the [5][Provincial Government], commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger or damage of the [6][residents or passengers] shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment [7][with or without hard labour] not exceeding eight days, and it shall be lawful for any police-officer to take into custody, without a warrant, any person who within his view commits any of such offences, namely :—

Power of police officers.

Slaughtering cattle, furious riding, etc.

First.—Any person who slaughters any cattle or cleans any carcass ; any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle :

Cruelty to animals.

Second.—Any person who wantonly or cruelly beats, abuses or tortures any animal :

Obstructing passengers.

Third.—Any person who keeps any cattle or conveyance of any kind standing longer than is required for loading or unloading or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public :

Exposing goods for sale.

Fourth.—Any person who exposes any goods for sale :

Throwing dirt into street.

Fifth.—Any person who throws or lays down any dirt, filth, rubbish or any stones or building materials, or who constructs any cowshed, stable or the like, or who causes any offensive matter to run from any house, factory, dung heap or the like :

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[1] Subs. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 12, for "two".
[2] Subs. by *ibid.*, s. 12, for "three".
[3] Ins. by *ibid.*, s. 13.
[4] For list of the towns to which this section has been specially extended, *see* different Local Rules and Orders.
[5] Subs. by the A. O. for "L. G.".
[6] Subs. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 13, for "residents and passengers."
[7] Ins. by the Amending Act, 1903 (1 of 1903), s. 3 and Sch. II.

Being found drunk or riotous.

Sixth.—Any person who is found drunk or riotous or who is incapable of taking care of himself :

Indecent exposure of person.

Seventh.—Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself, or by bathing or washing in any tank or reservoir not being a place set apart for that purpose :

Neglect to protect dangerous places.

Eighth.—Any person who neglects to fence in or duly to protect any well, tank or other dangerous place or structure.

Jurisdiction.

35. [1] * * * * * Any charge against a police-officer above the rank of a constable under this Act shall be enquired into and determined only by an officer exercising the powers of a [2]Magistrate.

Power to prosecute under other law not affected.

36. Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act or any other or higher penalty or punishment than is provided for such offence by this Act :

Proviso.

Provided that no person shall be punished twice for the same offence.

Recovery of penalties and fines imposed by Magistrates.

[3][**37.** The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code, and of sections 386 to 389, both inclusive, of the [4] Code of Criminal Procedure, 1882, with respect to fines, shall apply to penalties and fines imposed under this Act on conviction before a Magistrate : XLV of [1860]. X of 18[82].

Provided that, notwithstanding anything contained in section 65 of the first-mentioned Code, any person sentenced to fine under section 34 of this Act may be imprisoned in default of payment of such fine for any period not exceeding eight days.]

38. [*Procedure until return is made to warrant of distress.*] *Rep. by the Police Act (1861) Amendment Act, 1895 (VIII of 1895), s. 14.*

39. [*Imprisonment if distress not sufficient.*] *Rep. by* ibid.

40. [*Levy of fines from European British subjects.*] *Rep. by* ibid.

41. [*Rewards to police and informers payable to General Police Fund.*] *Rep. by the A. O.*[5]

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[1] The words " In all cases of convictions under this Act the Officer trying the case shall be limited to his ordinary jurisdiction as to the amount of fine or imprisonment which he may inflict : Provided that," were rep. by the Code of Criminal Procedure, 1882 (Act 10 of 1882).

[2] *i.e.*, by a Magistrate of the first class, *see* s. 3 (*2*) of the Code of Criminal Procedure, 1898 (5 of 1898).

[3] Subs. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 14, for the original ss. 37 to 40.

[4] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

[5] *See*, however, paragraph 4 of the India and Burma (Transitory Provisions) Order, 1937. Sec. 41 read as follows :—" All sums paid for the service of process by police-officers, and all rewards, forfeitures and penalties or shares of rewards, forfeitures and penalties which by law are payable to informers shall, when the information is laid by a police-officer, be paid into the General Police Fund ".

Limitation of actions.

[1]42 *All actions and prosecutions against any person which may be lawfully brought for anything done or intended to be done under the provisions of this Act or under the general police powers hereby given shall be commenced within three months after the act complained of shall have been committed and not otherwise*, and notice in writing of such action and of the cause thereof shall be given to the defendant or to the District Superintendent or an Assistant District Superintendent of the district in which the act was committed, one month at least before the commencement of the action

Tender of amends.

No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant, and, though a decree shall be given for the plaintiff in any such action such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held shall certify his approbation of the action

Proviso.

Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act

Plea that act was done under warrant.

43. When any action of prosecution shall be brought or any proceedings held against any police officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate

Such plea shall be proved by the production of the warrant directing the act and purporting to be signed by such Magistrate and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine

Proviso

Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section

[illegible] officers to keep diary

44 It shall be the duty of every officer in charge of a police station to keep a general diary in such form as shall from time to time be prescribed by the [2][Provincial Government] and to record therein all complaints and charges preferred, the names of all persons arrested the names of the complainants, the offences charged against them the weapons or property that shall have been taken from their possession or otherwise and the names of the witnesses who shall have been examined

The Magistrate of the district shall be at liberty to call for and inspect such diary

Provincial Government may [illegible] forms of [illegible].

45 The [2][Provincial Government] may direct the submission of such returns by the Inspector General and other police-officers as to such [2][Provincial Government] shall seem proper and may prescribe the form in which such returns shall be made

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[1] So much of s. 42 (the portion printed in italics) as relates to the [illegible] by the Indian Limitation Act 1871 (9 of 1871).

[2] Subs by the A. O. [illegible]

Scope of Act.

[1][46. (*1*) This Act shall not by its own operation take effect in any [2]presidency, province or place. But the [3][Provincial Government] by an order to be published in the [4][Official Gazette] may extend the whole or any part of this Act to any presidency, province or place, and the whole or such portion of this Act as shall be specified in such order shall thereupon take effect in such presidency, province or place.

(*2*) When the whole or any part of this Act shall have been so extended, the [5][Provincial Government] may, from time to time, by notification in the Official Gazette, make rules consistent with this Act—

(*a*) to regulate the procedure to be followed by Magistrates and police-officers in the discharge of any duty imposed upon them by or under this Act;

(*b*) to prescribe the time, manner and conditions within and under which claims for compensation under section 15A are to be made, the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local enquiries if necessary) which are to be taken consequent thereon; and,

(*c*) generally, for giving effect to the provisions of this Act.

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[1] Subs. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 15, for the original section.

[2] In the Provinces of Madras, Bombay and Sind there are special Police Acts, *see* the Madras District Police Act, 1859 (24 of 1859); the Bombay District Police Act, 1867 (Bom. 7 of 1867), and the Bombay District Police Act, 1890 (Bom. 4 of 1890). In the Lower Provinces of Bengal, Bengal Act 7 of 1869 is to be read and taken as part of Act 5 of 1861, *see* s. 6 of the former Act.

For notification extending this Act under the power conferred by the original section to—

(1) the U. P. including Ajmer-Merwara then under that Government, *see* Notification No. 964 in the North-Western Provinces Gazette, 1861, p. 634:

[For orders as to enforcement of the Act in 27 districts in the U. P., in Hamirpur, Jalaun, Jhansi, Lalitpur, Naini Tal (including the Tarai Parganas) and Almora and Garhwal issued under the original s. 46, paragraph 2 (after the Act had been extended under paragraph 1 of that section to the whole province), *see* Notifications noted in U. P. List of R. & O. These orders are kept in force by s. 16 of Act 8 of 1895.]

(2) Oudh, *see* Notification No. 34 in the North-Western Provinces Gazette, 1861, p. 1758;

(3) tract of land between Allahabad and Jubbulpore ceded in full sovereignty by certain Native States, *see* Notification No. 205-F., at page 13 of the C. P. R. & O.;

(4) the C. P., the Districts of Nagpur, Raipur, Bhandara, Chanda and Chhindwara, Sironcha, Nimar, *see* C. P. R. & O.;

(5) Bengal and Assam, *see* Notification No. 1871, set out at p. 14 of the Assam R. & O., Vol. I;

(6) several districts in the Punjab, *see* Notification No. 971, dated 15th May 1861, Calcutta Gazette, 18th May 1861, p. 1302, and Punjab R. & O.

Under the power conferred by the section as it stood before the 1st April 1937, it has been extended as follows to—

(1) Madras: ss. 15, 15A, 16, 30, 30A, 31 and 32 of the Act have been extended to the whole of the Madras Presidency, *see* Notification No. 728, dated 31st October 1895, Gazette of India, 1895, Pt. I, p. 876.

(2) Eastern Dooars in the Goalpara District, *see* Notification No. 230, Gazette of India, 1897, Pt. I, p. 198.

(3) the North and South Lushai Hills and the tract known as Rutton Puiya's villages including Demagri (now known as the Lushai Hills), *see* Gazette of India, 1898, Pt. I, p. 370.

For list of provinces and districts to which the Act has been extended by special enactments, *see* note (1) on p. 355, *supra*.

[3] Subs. by the A. O. for "G. G. in C.".

[4] Subs. by the A. O. for "Gazette of India".

[5] Subs. by the A. O. for "L. G.".

(3) All rules made under this Act may from time to time be amended, added to or cancelled by the [1][Provincial Government].

47. It shall be lawful for the [1][Provincial Government] in carrying this Act into effect in any part of the territories subject to such [1][Provincial Government], to declare that any authority which now is or may be exercised by the Magistrate of the district over any village watchman or other village police officer for the purposes of police, shall be exercised, subject to the general control of the Magistrate of the district, by the District Superintendent of Police. Authority of District Superintendent of Police over village-police

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FORM

(*See section 8*.)

A B has been appointed a member of the police force under Act V of 1861, and is vested with the powers, functions and privileges of a police-officer.

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[2][THE STAGE-CARRIAGES ACT, 1861.]

CONTENTS

PREAMBLE

SECTIONS

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[1] Subs. by the A. O. [illegible] for "L. G."

[2] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

Cf. The Stage Carriages Act, 1832 (2 & 3 Wm. IV, c. [illegible]), The London Hackney Carriages Act, 1833 (3 & 4 Wm. IV, c. 48), The Railway Passenger Duty Act, 184[illegible] [illegible]

ACT NO. XVI OF 1861.

[*7th July, 1861.*]

An Act for licensing and regulating Stage-Carriages.

Preamble.

WHEREAS it is expedient to license and to regulate stage-carriages in British India ; It is enacted as follows :—

Definition of stage-carriage.

1. Every carriage drawn by one or more [1]horses which shall ordinarily be used for the purpose of conveying passengers for hire to or from any place in British India shall, without regard to the form or construction of such carriage, be deemed to be a stage-carriage within the meaning of this Act : [2]* * * * * * * * * * * * * * * * *

& 6 Vict., c. 79) ; "The Railway Passenger Duty Act, 1847" (10 & 11 Vict., c. 42) ; "The Excise Act, 1848" (11 & 12 Vict., c. 118), s. 2.

This Act as amended by the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898), has been declared to apply to the whole of British India, but not so as to supersede or contravene provisions of local laws dealing with the same subject—*see* s. 22. For local laws, *see* the Bombay Public Conveyance Act, 1920 (Bom. 7 of 1920), the Madras Hackney Carriage Act, 1911 (Mad. 5 of 1911), and the Calcutta Hackney Carriage Act, 1919 (Ben. 1 of 1919). *Cf.* also the Hackney Carriage Act, 1879 (14 of 1879).

It has been declared in force in British Baluchistan under s. 3 of the British Baluchistan Laws Regulation, 1913 (2 of 1913).

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

The Districts of Hazáribagh, Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44) and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	*See* Gazette of India, 1881, Pt. I, p. 504.
The Tarái of the Province of Agra .	Ditto 1876, Pt. I, p. 505.

It has been declared, by notification under s. 3 (*a*) of the Santhál Parganas Justice and Laws Regulation, 1899 (3 of 1899), to be in force in the Santhál Parganas, *see* Calcutta Gazette, 1901, Pt. I, p. 301.

[1] All expressions and provisions in this Act applied to horses, also apply to all other animals employed in drawing stage-carriages, *see* section 21, *infra*.

[2] Proviso to s. 1 which read :—"Provided that this Act shall not apply to carriages not ordinarily used for journeys of a greater distance than twenty miles" rep. by s. 2 of the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898).

Carriages to be licensed. 2. No carriage shall be used as a stage carriage unless licensed by a [1]Magistrate or by the [2]* Commissioner of Police of a Presidency town.

Power to refuse license. 3. The Magistrate or [2]* Commissioner of Police to whom the application for a license of stage carriage is made may refuse to license the same if he shall be of opinion that such stage-carriage is unserviceable or is unsafe or unfit for public accommodation or use.

Particulars of license. If a Magistrate or [2]* Commissioner of Police as aforesaid shall grant a license, the license shall set forth the number thereof, the name and residence of the proprietor of the stage-carriage, the place at which his head office is held, the largest number of passengers and the greatest weight of luggage to be carried in or on such carriage, the number of horses by which such carriage is to be drawn, and the name of the place at which such carriage is licensed.

Charges for and duration of license. 4. [3][For every such license there shall be paid by the proprietor of the stage carriage the sum of five rupees or such less sum as the [4][Provincial Government] may fix, and such license shall be in force for one year from the date thereof.]

When a licensed stage-carriage is transferred to a new proprietor within the year, the name of such new proprietor shall, on application to that effect, be substituted in the license for the name of the former proprietor without any further payment for that year; and every person who appears by the license to be the proprietor shall be deemed to be such proprietor for all the purposes of this Act.

Particulars to be painted on conspicuous part of carriage. 5. On any stage carriage being licensed the proprietor thereof shall cause the number of the license and all the other particulars of the license to be distinctly painted in the English language and character upon a conspicuous part of such stage-carriage.

Penalty for letting carriage without having particulars painted. 6. The proprietor of any licensed stage-carriage who shall let such stage carriage for hire without the particulars specified in section 3 being painted on such carriage in the manner directed in the last preceding section shall be liable to a fine not exceeding one hundred rupees.

Penalty for letting for hire unlicensed carriage. 7. Whoever lets for hire any stage-carriage without the same being licensed as provided by this Act, shall be liable, on a first conviction, to a fine not exceeding one hundred rupees, and on any subsequent conviction, to a fine which may extend to five hundred rupees.

Penalty for allowing carriage to be drawn by fewer horses or more passengers. 8. Any proprietor, or agent of a proprietor, or any driver of a licensed stage carriage, who knowingly permits such carriage to be drawn by a less number of horses, or who knowingly permits a larger number of passengers, or a greater weight of luggage, to be carried by such stage-carriage than shall

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[1] For definition of "Magistrate", see s. 21 infra.

[2] The word "Chief" was rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

[3] Subs. by the Stage Carriages Act (1861) Amendment Act, 1895 (1 of 1895), s. 2, for the original paragraph.

[4] Subs. by the A. O. for "L. G."

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[*7th July, 1861.*]

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Preamble.

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Definition of stage-carriage.

1. Every carriage drawn by one or more [1]horses which shall ordinarily be used for the purpose of conveying passengers for hire to or from any place in British India shall, without regard to the form or construction of such carriage, be deemed to be a stage-carriage within the meaning of this Act : [2]* * * * * * * * * * * * * * * * *

& 6 Vict., c. 79) ; "The Railway Passenger Duty Act, 1847" (10 & 11 Vict., c. 42) ; "The Excise Act, 1848" (11 & 12 Vict., c. 118), s. 2.

This Act as amended by the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898), has been declared to apply to the whole of British India, but not so as to supersede or contravene provisions of local laws dealing with the same subject—*see* s. 22. For local laws, *see* the Bombay Public Conveyance Act, 1920 (Bom. 7 of 1920), the Madras Hackney Carriage Act, 1911 (Mad. 5 of 1911), and the Calcutta Hackney Carriage Act, 1919 (Ben. 1 of 1919). *Cf.* also the Hackney Carriage Act, 1879 (14 of 1879).

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The Tarái of the Province of Agra .	Ditto	1876, Pt. I, p. 505.

It has been declared, by notification under s. 3 (*a*) of the Santhál Parganas Justice and Laws Regulation, 1899 (3 of 1899), to be in force in the Santhál Parganas, *see* Calcutta Gazette, 1901, Pt. I, p. 301.

[1] All expressions and provisions in this Act applied to horses, also apply to all other animals employed in drawing stage-carriages, *see* section 21, *infra.*

[2] Proviso to s. 1 which read :—"Provided that this Act shall not apply to carriages not ordinarily used for journeys of a greater distance than twenty miles" rep. by s. 2 of the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898).

2. No carriage shall be used as a stage-carriage unless licensed by a [1]Magistrate or by the [2]* Commissioner of Police of a Presidency town

Carriages to be licensed

3. The Magistrate or [2]* Commissioner of Police to whom the application for a license of stage-carriage is made may refuse to license the same if he shall be of opinion that such stage-carriage is unserviceable or is unsafe or unfit for public accommodation or use

Power to refuse license

If a Magistrate or [2]* Commissioner of Police as aforesaid shall grant a license, the license shall set forth the number thereof, the name and residence of the proprietor of the stage-carriage, the place at which his head office is held, the largest number of passengers and the greatest weight of luggage to be carried in or on such carriage, the number of horses by which such carriage is to be drawn, and the name of the place at which such carriage is licensed

Particulars of license

4. [3][For every such license there shall be paid by the proprietor of the stage carriage the sum of five rupees or such less sum as the [4][Provincial Government] may fix, and such license shall be in force for one year from the date thereof]

Charge for and duration of license

When a licensed stage-carriage is transferred to a new proprietor within the year, the name of such new proprietor shall, on application to that effect, be substituted in the license for the name of the former proprietor without any further payment for that year, and every person who appears by the license to be the proprietor shall be deemed to be such proprietor for all the purposes of this Act

5. On any stage carriage being licensed the proprietor thereof shall cause the number of the license and all the other particulars of the license to be distinctly painted in the English language and character upon a conspicuous part of such stage-carriage

Particulars to be painted on conspicuous part of carriage

6. The proprietor of any licensed stage-carriage who shall let such stage carriage for hire without the particulars specified in section 3 being painted on such carriage in the manner directed in the last preceding section shall be liable to a fine not exceeding one hundred rupees

Penalty for letting carriage without having particulars painted

7. Whoever lets for hire any stage-carriage without the same being licensed as provided by this Act, shall be liable, on a first conviction, to a fine not exceeding one hundred rupees, and on any subsequent conviction, to a fine which may extend to five hundred rupees

Penalty for letting for hire unlicensed carriage

8 Any proprietor, or agent of a proprietor, or any driver of a licensed stage carriage, who knowingly permits such carriage to be drawn by a less number of horses, or who knowingly permits a larger number of passengers or a greater weight of luggage, to be carried by such stage-carriage than shall

Penalty for allowing carriage to be drawn by fewer horses or more passengers,

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[1] For definition of "Magistrate", see s. 21, infra
[2] The word "Chief" was rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II
[3] Subs. by the Stage-Carriages Act (1861) Amendment Act, 1925 (1 of 1925), s. 2, for the original paragraph.
[4] Subs. by the A. O. for "L. G."

etc., to be carried than provided by license.

be provided by the license, shall be liable on a first conviction t exceeding one hundred rupees, and on any subsequent convictio which may extend to five hundred rupees.

In every case where such stage-carriage shall be proved to have by a less number of horses, or to have carried a larger number of or a greater weight of luggage, than shall be provided by the licen prietor of such carriage shall be held to have knowingly permitted s unless he shall prove that the offence was not committed with his and that he had taken every reasonable precaution and had made provision to prevent the commission of the offence.

Penalty for ill-treating animals.

9. Any person who shall cruelly beat, ill-treat, over-drive, ab or cause or procure to be cruelly beaten, ill-treated, over-driven tortured, any horse employed in drawing or harnessed to any sta or who shall harness to or drive in any stage-carriage any horse sickness, age, wounds or other cause is unfit to be driven in such sta shall for every such offence be liable to a fine not exceeding one hun

Revocation of license.

10. Any Magistrate or [1]* Commissioner of Police within the of whose jurisdiction any stage-carriage shall ply, or who has license of any stage-carriage may cancel the license of such st if it shall appear to him that such stage-carriage or any horse or used with such carriage is unserviceable or unsafe or otherwise unfi accommodation or use.

Penalty for not conforming to provisions of section 5.

11. In any station or place in which a Magistrate shall reside police-officer may, in any place within two miles of the office of trate, seize any stage-carriage with the horse harnessed thereto particulars of the license of such stage-carriage be not distinctly such stage-carriage in the manner provided in section 5 of this Act

Such carriage with the horse harnessed thereto shall be tak delay by such police-officer before such Magistrate, who shall forthw to hear and determine the complaint of such police-officer ; and, any fine is imposed by such Magistrate and such fine is paid, such st and horse shall be immediately released ; and if such fine be not stage-carriage and horse may be detained for twenty days as secu payment thereof ; and if the fine be not sooner paid, they may be proceeds applied (so far as they extend) to the payment of the sa all costs and charges incurred on account of the detention and sa surplus (if any), when claimed, shall be paid to the proprietor of s and horse ; and if such surplus be not claimed within a further p months from such sale, the same shall be forfeited to the State.

If the proceeds of such sale do not fully pay the fine and costs aforesaid, the balance may be recovered as hereinafter providec

Penalty for misconduct on part of drivers.

12. If any driver of any stage-carriage, or any other persor care thereof, shall, through intoxication, neglect or by wanton or fu or by any other misconduct, endanger the safety of any passen

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[1] The word "Chief" was rep. by the Repealing and Amending Act, 1914 (

person, or shall injure or endanger the property of the proprietor of such stage-carriage or of any other person, every such person so offending shall be liable to a fine not exceeding one hundred rupees

Penalty when recoverable from proprietor.

13. Whenever the driver of any stage-carriage or the owner of any horse employed in drawing any stage carriage shall have committed any offence against this Act for the commission whereof any penalty is by this Act imposed, other than an offence specified in section 8, and such driver or owner shall not be known, or being known cannot be found, or if the penalty cannot be recovered from such driver or owner, the proprietor of such carriage shall be liable to every such penalty as if he had been the driver of such carriage or owner of such horse at the time when such offence was committed

Proviso

Provided that if any such proprietor shall make out to the satisfaction of the Magistrate before whom any complaint or information shall be heard by sufficient evidence that the offence was committed by such driver or owner without the privity or knowledge of such proprietor, and that no profit advantage or benefit, either directly or indirectly, has accrued or can accrue to such proprietor therefrom, and that he has used his endeavour to find out such driver or owner, and has done all that was in his power to recover the amount of the penalty from him, the Magistrate may discharge the proprietor from such penalty, and shall levy the same upon such driver or owner when found

Issue of summons

14 Whenever any charge is made before any Magistrate of any offence under this Act on which it is necessary to issue a summons to the proprietor of a stage carriage, the Magistrate shall issue such summons directed to such proprietor or his nearest agent, and may transmit such summons by letter post, which shall be deemed to be good service thereof

The letter shall be registered at the post-office and the cost of the registration shall be borne by the Government in the first instance, but may be charged as costs in the case

The summons shall allow a reasonable time in reference to the distance to which the summons is sent, for the appearance of such proprietor or his agent as aforesaid

Adjudication of penalties

15 All penalties incurred under this Act shall be adjudged by a Magistrate or [1]* Commissioner of Police as aforesaid, and all orders made under this Act by such Magistrate or [1]* Commissioner of Police shall be final

Recovery of penalties, etc.

16. All penalties imposed under this Act, or any balance of any fine costs or charges as mentioned in section 11 of this Act, may in case of non payment or non recovery thereof be levied by distress and sale of the moveable property of the offender by warrant under the hand of the Magistrate who imposed the same

Offender may be apprehended and detained in custody

17. In case any such penalties shall not be forthwith paid, such Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the

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[1] The word "Chief" was rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II

until return of warrant of distress. offender shall give security to the satisfaction of such Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment of offender if distress not sufficient.

18. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Magistrate by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if warrant of distress were issued, such Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Recovery of penalty and costs from European British subjects.

19. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the district wherein the offender is convicted, and the amount of penalty and the costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Jurisdiction.

20. On complaint made before any Magistrate of any offence committed under this Act, it shall not be necessary to prove that the offence was committed within the local limits of such Magistrate or other officer.

Power to make rules.

[1][**20A.** *(1)* The [2][Provincial Government] may, by notification in the official Gazette, make [3]rules to carry out the purposes and objects of this Act in the territories under its administration or any part of the said territories.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe forms for licenses under this Act, the sums payable for the same and the conditions on which they may be granted, and the cases in which they may be revoked;

(b) provide for the inspection of stage-carriages, and of the animals employed in drawing them; and

(c) regulate the number and length of the stages for which animals may be driven in stage-carriages and the manner in which they shall be harnessed and yoked.

(3) In making any rule under this section, the [2][Provincial Government] may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees.]

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[1] Ins. by the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898), s. 4.
[2] Subs. by the A. O. for "L. G.".
[3] For rules under section 20A *see* different Local Rules and Orders.

21. The term "Magistrate" in this Act shall include all Magistrates and other persons exercising the powers of a [1]Magistrate : — *Interpretation-clause. "Magistrate"*

[2]* * * * * * *

[3][All expressions and provisions which in this Act are applied to horses shall also apply to all other animals employed in drawing any carriage ordinarily used for the purpose of conveying passengers for hire to or from any place in British India :] — *Act applicable to all animals used for drawing carriages.*

[4]* * * * * * *

[4]* * * * * * *

[5][22. This Act, as amended by subsequent Acts, extends to the whole of British India ; but it shall not apply to carriages ordinarily plying for hire within the limits of any municipality or cantonment or other place in which any law for the regulation of carriages is for the time being in force.] — *Extent of Act.*

[5][23. The [6][Provincial Government] may, by notification in the official Gazette, exempt any carriages or class of carriages from all or any of the provisions of this Act.] — *Power to Provincial Government to exempt.*

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[7][THE GOVERNMENT SEAL ACT, 1862.]

Act No. III of 1862.

[28th February, 1862.]

An Act to amend the law relating to the use of a Government Seal.

WHEREAS it is expedient to adapt the law relating to the use of a Government seal to the present form of the Government in India ; It is enacted as follows :— — *Preamble.*

Whenever it is required by any Regulation of a Local Government — *Seal to be used instead*

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[1] As to officers exercising the powers of a Magistrate, *see* s. 3 (2) of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

[2] The definition of "British India" was rep. by the A. O. *See* now the General Clauses Act, 1897 (10 of 1897), s. 3 (7) and s. 4 A (1)

[3] Subs. by s. 1 of the Stage Carriages Act (1861) Amendment Act, 1876 (16 of 1876), for the original third clause.

[4] [illegible] and Amending [illegible] ment Act, 18[illegible] [illegible] originally passed [illegible]

[illegible] 862, see Calcutta Gazette, 1862, p. 406. For Proceedings in Council relating to the Bill, see *ibid*, Supplement, pp. 2[illegible] and 171. Legislation on the subject was originally suggested in order to meet a difficulty as regards the seal to be used under Act 19 of 1838 (*for the registration of country vessels in the Bombay Presidency*). S. [illegible] of that Act requires that certificates of registry "shall be sealed with the seal of the East India Company," and the Government of Bombay were advised by their law officers that no other seal could properly be used for such certificates until some Act should be passed prescribing the seal to be used in lieu of the seal of the East India Company.

The Act has been declared to be in force in the whole of British India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

until return of warrant of distress. offender shall give security to the satisfaction of such Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment of offender if distress not sufficient.

18. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Magistrate by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if warrant of distress were issued, such Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Recovery of penalty and costs from European British subjects.

19. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the district wherein the offender is convicted, and the amount of penalty and the costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Jurisdiction.

20. On complaint made before any Magistrate of any offence committed under this Act, it shall not be necessary to prove that the offence was committed within the local limits of such Magistrate or other officer.

Power to make rules.

[1][**20A.** (*1*) The [2][Provincial Government] may, by notification in the official Gazette, make [3]rules to carry out the purposes and objects of this Act in the territories under its administration or any part of the said territories.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe forms for licenses under this Act, the sums payable for the same and the conditions on which they may be granted, and the cases in which they may be revoked ;

(*b*) provide for the inspection of stage-carriages, and of the animals employed in drawing them ; and

(*c*) regulate the number and length of the stages for which animals may be driven in stage-carriages and the manner in which they shall be harnessed and yoked.

(*3*) In making any rule under this section, the [2][Provincial Government] may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees.]

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[1] Ins. by the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898), s. 4.
[2] Subs. by the A. O. for "L. G.".
[3] For rules under section 20A *see* different Local Rules and Orders.

21. The term "Magistrate" in this Act shall include all Magistrates and other persons exercising the powers of a [1]Magistrate. Interpretation-clause. Magistrate

[2]* * * * * * *

[3][All expressions and provisions which in this Act are applied to horses shall also apply to all other animals employed in drawing any carriage ordinarily used for the purpose of conveying passengers for hire to or from any place in British India.] Act to apply to all animals used for drawing carriages.

[4]* * * * * * *

[4]* * * * * * *

[5][22. This Act, as amended by subsequent Acts, extends to the whole of British India, but it shall not apply to carriages ordinarily plying for hire within the limits of any municipality or cantonment or other place in which any law for the regulation of carriages is for the time being in force.] Extent of Act

[5][23. The [6][Provincial Government] may, by notification in the official Gazette, exempt any carriages or class of carriages from all or any of the provisions of this Act.] Power to Provincial Government to exempt

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[7][THE GOVERNMENT SEAL ACT, 1862.]

Act No. III of 1862

[28th February, 1862.]

An Act to amend the law relating to the use of a Government Seal.

WHEREAS it is expedient to adapt the law relating to the use of a Government seal to the present form of the Government in India. It is enacted as follows:— Preamble

Whenever it is required by any Regulation of a Local Government Seal to be used instead

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[1] As to officers exercising the powers of a Magistrate, see s. 3 (2) of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

[2] The definition of "British India" was rep. by the A. O. See now the General Clauses Act, 1897 (10 of 1897), s. 3 (7) and s. 4 A (1).

[3] Subs. by s. 1 of the Stage Carriages Act (1861) Amendment Act, 1876 (16 of 1876), for [illegible]

[illegible] g and Amending [illegible]

[illegible] ndment Act, 189[illegible]

[illegible] originally passed [illegible]

[6] Subs. by the A. O. for "L. G." [illegible]

[illegible]

the seal of the East India Company [illegible] law officers that no other seal could properly be used for such certificates until some Act should be passed prescribing the seal to be used in lieu of the seal of the East India Company.

This Act has been declared to be in force in the whole of British India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

of seal of East India Company. or by [1][any Act of the Central Legislature] that the seal of the East India Company shall be affixed on behalf or by the authority of the Government to any instrument or document, it shall be lawful, if the seal is to be affixed on behalf or by the authority of a [2][Provincial Government] to affix in lieu of the seal of the East India Company a seal bearing the designation of such [2][Provincial Government] or, if the seal is to be affixed on behalf or by the authority of the [3][Central Government] a seal bearing [4][the inscription "Government of India" or "Government of the Federation of India"] and such instrument or document so sealed shall to all intents and purposes be as valid and effectual as if the seal so used had been that of the East India Company.

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[5][THE EXCISE (SPIRITS) ACT, 1863.]

ACT NO. XVI OF 1863.

[10th March, 1863.]

An Act to make special provision for the levy of the Excise-duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.

Preamble. WHEREAS it is expedient to make special provision for the levy of the excise-duty payable on spirits used exclusively in arts and manufactures or in chemistry; It is enacted as follows:—

Duty payable on removal of such **1.** Spirits intended to be used exclusively in arts and manufactures or in chemistry may be removed from any licensed distillery in any part of British

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It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri and the Western Dvárs, *see* Gazette of India, 1881, Pt. I, p. 74.

The Districts of Hazáribagh, Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum, *see* Gazette of India, 1881, Pt. I, p. 504.

The Scheduled Districts in Ganjam and Vizagapatam, *see* Gazette of India, 1898, Pt. I, p. 870.

The Scheduled portion of the Mirzápur District, *see* Gazette of India, 1879, Pt. I, p. 383.

Jaunsar Báwar, *see* Gazette of India, 1879, Pt. I, p. 382.

The districts of Hazára, Peshávar, Kohát, Bannu, Dera Ismail Khán and Dera Gházi Khán. (*Portions of the Districts of Hazára, Bannu, Dera Ismail Khán, Dera Ghází Khán and the Districts of Kohát and Peshávar now form the N.-W. F. P.*, see *Gazette of India, 1901, Pt. I, p. 857, and* ibid, *1902, Pt. I, p. 575*); [*but its application has been barred to that portion of the Hazára District known as Upper Tanawal, by the Hazára (Upper Tanawal) Regulation, 1900 (2 of 1900)*.] *See* Gazette of India, 1886, Pt. I, p. 48.

The District of Sylhet, *see* Gazette of India, 1879, Pt. I, p. 631.

The rest of Assam (except the North Lushái Hills), *see* Gazette of India, 1897, Pt. I, p. 299.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the Scheduled Districts of Kumaon and Garhwál. *See* Gazette of India, 1876, Pt. I, p. 606.

It has been declared, by notification under s. 3 (*b*) of the same Act, not to be in force in the Scheduled District of Lahaul. *See* Gazette of India, 1886, Pt. I, p. 306.

[1] Subs. by the A. O. for "any Act of the G. G. of India in C.".

[2] Subs. by the A. O. for "L. G."

[3] Subs. by the A. O. for "G. of I.".

[4] Subs. by the A. O. for "the inscription 'G. of I.'"

[5] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

For Statement of Objects and Reasons of the Bill which became Act 16 of 1863, *see* Calcutta Gazette, 1862, p. 4063, and for Proceedings in Council relating to the Bill *see ibid*, Supplement, p. 449; and *ibid*, 1863, p. 106.

India on payment of duty [1][not exceeding five] per cent. on the value of the spirits :

spirits from distillery.

Provided that no spirits shall be so removed until they have been effectually and permanently rendered unfit for human consumption.

Proviso.

Rules of ascertaining that spirits to be removed have been rendered unfit for human consumption, etc.

2. [2][In each Province] the Board of Revenue, or other authority specially authorized in that behalf by the [3][Central Government] shall prescribe from time to time, subject to the approval of the [3][Central Government] rules—

for ascertaining and determining that spirits proposed to be removed for the purposes aforesaid have been effectually and permanently rendered unfit for human consumption, as required by section 1 of this Act ;

for causing such spirits to be so rendered, if necessary, by its own officers at the expense of the person who wishes to remove them ; and

for fixing the value of the spirit on which the *ad valorem* duty shall be levied.

Penalty for breach of such rules.

3. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue, or other authority as aforesaid, under the last preceding section of this Act, shall be liable on conviction before any officer exercising the powers of a Magistrate to a penalty not exceeding five hundred rupees for every such offence.

Penalty for attempting to render fit for human consumption spirits removed under Act.

4. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption, spirits removed from a distillery under the provisions of this Act, shall be liable to a penalty not exceeding one thousand rupees ;

and the possessor of such spirits on which such attempt has been made, or which may have been rendered fit for human consumption, shall be liable on conviction before any officer exercising the powers of a Magistrate, to a penalty not exceeding five hundred rupees

Penalty how levied.

5. Any penalty imposed under either of the last two preceding sections may in case of non-payment be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the officer by whom such penalty was imposed.

The Act was declared to be in force in the whole of British India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), not to be in force in the Scheduled District of Lahaul. See Gazette of India, 1886, Pt. I, p. 301.

The Act was repealed :—

in Madras, by the Madras Abkari Act, 1886 (Mad. 1 of 1886), Sch., as amended by the [illegible] 913),

in Bombay [illegible] 12 of 1912);

in the U. P. [illegible]

in the Pun[illegible] 914),

in the C. P., by the C. P. Excise Act, 1915 (C. P. 2 of 1915);

in Bengal, Bihar and Orissa, and locally in Assam, by the Bengal Excise Act, 1909 (Ben. 5 of 1909), and the Eastern Bengal and Assam Excise Act, 1910 (E. B. & A. 1 of 1910).

[1] Subs. for "calculated at ten" by s. 6 of the Indian Tariff Act, 1894 (8 of 1894).

[2] Ins. by the A. O.

[3] Subs. by the A. O. for "L. G.".

In case of non-payment of penalty, offender may be detained pending return to distress warrant.

6. In case any such penalty shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody, until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment of offender in case of failure to recover penalty by distress.

7. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or

in case it shall appear to the satisfaction of such officer by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued,

any such officer may by warrant under his hand commit the offender to the civil jail, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

8. [*Provisions of section 11, Act III of 1852, relating to adulteration, not to apply to spirits rendered unfit for consumption under Act.*]. *Rep. by the Repealing and Amending Act, 1891 (XII of 1891), s. 2 (1).*

Confiscation in cases of conviction under section 3 or 4.

9. In every case of conviction under section 3 or section 4 of this Act, the liquor or spirits with the cask or vessel containing the same, and the cart, boat and animal or animals employed in carrying such liquor or spirit, shall be liable to confiscation.

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[1][THE RELIGIOUS ENDOWMENTS ACT, 1863.]

CONTENTS.

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[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

ACT NO XX OF 1863 [1]

[10th March, 1863]

An Act to enable the Government to divest itself of the management of Religious Endowments

WHEREAS it is expedient to relieve the Boards of Revenue and the Local Agents, in the Presidency of Fort William in Bengal and the Presidency of Preamble.

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[1] For the Statement of Objects and Reasons of the Bill which became Act 20 of 1863 see Calcutta Gazette 186[illegible] [illegible] and for [illegible] Council [illegible] relating to the [illegible] Supplement p. 29; and [illegible] 1863 p. 16

Fort Saint George, from the duties imposed on them by Regulation XIX, 1810, of the Bengal Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindu Temples, Colleges and other purposes; for the maintenance and repair of Bridges, Sarais, Kattras and other public buildings; and for the custody and disposal of Nazul Property or Escheats*), and Regulation VII, 1817, of the Madras Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindu Temples and Colleges or other public purposes; for the maintenance and repair of Bridges, Choultries, or Chattrams, and other public buildings; and for the custody and disposal of Escheats*), so far as those duties embrace the superintendence of lands granted for the support of mosques or Hindu temples and for other religious uses; the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of trustees or managers thereof; Ben. Reg. XIX of 1810. Mad. Reg. VII of 1817.

The Act has been extended to Kanara by the Religious Endowments (Extension to Kanara) Act, 1865 (Bom. 7 of 1865), which was specially passed for that purpose.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:

The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	*See* Gazette of India,	1881, Pt. I, p. 504.
The Scheduled portion of the Mirzápur District	Ditto	1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
The Districts of Hazára, Peshávar, Kohát, Bannu, Dera Ismail Khán and Dera Gházi Khán. [*Portions of the Districts of Hazára, Bannu, Dera Ismail Khán and Dera Gházi Khán and the Districts of Pesháwar and Kohát now form the N.-W. F. P.* see *Gazette of India, 1901, Pt. I, p. 857, and* ibid, *1902, Pt. I, p. 575; but its application in that part of the Hazára District known as Upper Tanawal is barred by the Hazára (Upper Tanawal) Regulation, 1900 (2 of 1900)*]	Ditto	1886, Pt. I, p. 48.
Assam (except the North Lushái Hills) .	Ditto	1897, Pt. I, p. 299.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely :—

Kumáon and Garhwál	*See* Gazette of India,	1876, Pt. I, p. 606.
The Tarái of the Province of Agra .	Ditto	1876, Pt. I, p. 505.
Ajmer and Merwára	Ditto	1877, Pt. I, p. 605.

S. 22 applies to the whole of British India.

It has been repealed in Madras as to Hindu Religious Endowments by the Madras Hindu Religious Endowments Act, 1926 (Mad. 2 of 1927), and amended in Bengal by the Bengal Waqf Act, 1934 (Ben. 13 of 1934).

or involve any connexion with the management of such religious establishments, [1]* * * * * *. It is enacted as follows —

1. [*Repeal of parts of Bengal Regulation XIX of 1810 and Madras Regulation VII of 1817*] *Rep by the Repealing Act, 1870* (XIV *of 1870*)

2. In this Act— Interpretation clause

[2]* * * *

[2]* * * *

the words "Civil Court" and "Court" shall [3][save as provided in section 10] mean the principal Court of original civil jurisdiction in the district in which [3][or any other Court empowered in that behalf by the [4][Provincial Government] within the local limits of the jurisdiction of which] the mosque, temple or religious establishment is situate, relating to which, or to the endowment whereof, any suit shall be instituted or application made under the provisions of this Act "Civil Court" and "Court".

3. In the case of every mosque, temple or other religious establishment to which the provisions of either of the Regulations specified in [5][the preamble to this Act,] are applicable, and nomination of the trustee, manager or superintendent thereof, at the time of the passing of this Act, is vested in, or may be exercised by, the Government or any public officer, or in which the nomination of such trustee, manager or superintendent shall be subject to the confirmation of the Government or any public officer, the [4][Provincial Government] shall, as soon as possible after the passing of this Act, make special provision as hereinafter provided Government to make special provision respecting mosques, etc

4. In the case of every such mosque, temple or other religious establishment which, at the time of the passing of this Act, shall be under the management of any trustee, manager or superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of the Government or any public officer, the [4][Provincial Government] shall, as soon as possible after the passing of this Act, transfer to such trustee, manager or superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue or any local agent, and belonging to such mosque, temple or other religious establishment, except such property as is hereinafter provided, Transfer to trustees, etc., of trust property in charge of Revenue Board

and the powers and responsibilities of the Board of Revenue, and the local agents, in respect to such mosque, temple or other religious establishment, and to all land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue or any local agent, previous to such transfer, shall cease and determine Cessation of Board's powers as to such property.

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[1] The words and figures "and whereas ... [illegible]

[2] ... clauses relating to "number" and "gender" rep by the Repealing and Amending Act, 1914 (10 of 1914)

[3] Ins. by s. 2 of the Religious Endowments (Amendment) Act, 1925 (21 of 1925)

[4] Subs. by the A O for "L G"

[5] [illegible]

Procedure in case of dispute as to right of succession to vacated trusteeship.

5. Whenever from any cause a vacancy shall occur in the office of any trustee, manager or superintendent, to whom any property shall have been transferred under the last preceding section, and any dispute shall arise respecting the right of succession to such office, it shall be lawful for any person interested in the mosque, temple or religious establishment to which such property shall belong; or in the performance of the worship or of the service thereof, or the trusts relating thereto, to apply to the Civil Court to appoint a manager of such mosque, temple or other religious establishment, and thereupon such Court may appoint such manager to act until some other person shall by suit have established his right of succession to such office.

Powers of managers appointed by Court.

The manager so appointed by the Civil Court shall have and shall exercise all the powers which, under this or any other Act, the former trustee, manager or superintendent, in whose place such manager is appointed by the Court, had or could exercise in relation to such mosque, temple or religious establishment, or the property belonging thereto.

Rights, etc., of trustees to whom property is transferred under section 4.

6. The rights, powers and responsibilities of every trustee, manager or superintendent, to whom the land and other property of any mosque, temple or other religious establishment is transferred in the manner prescribed in section 4 of this Act, as well as the conditions of their appointment, election and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under this Act, and except in respect of the authority of the Board of Revenue and local agents, given by the Regulations hereby repealed, over such mosque, temple or religious establishment, and over such trustee, manager or superintendent, which authority is hereby determined and repealed.

Appointment of Committees.

All the powers which might be exercised by any Board or local agent for the recovery of the rent of land or other property transferred under the said section 4 of this Act, may, from the date of such transfer, be exercised by any trustee, manager or superintendent to whom such transfer is made.

Constitution and duties of committees.

7. In all cases described in section 3 of this Act the [1][Provincial Government] shall once for all appoint one or more committees in every division or district to take the place, and to exercise the powers, of the Board of Revenue and the local agents under the Regulations hereby repealed.

Such committee shall consist of three or more persons, and shall perform all the duties imposed on such Board and local agents, except in respect of any property which is specially provided for under section 21 of this Act.

Qualifications of member of committee.

8. The members of the said committee shall be appointed from among persons professing the religion for the purposes of which the mosque, temple or other religious establishment was founded or is now maintained, and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such mosque, temple or other religious establishment.

The appointment of the committee shall be notified in the Official Gazette.

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[1] Subs. by the A. O. for "L. G.".

In order to ascertain the general wishes of such persons in respect of such appointment, the [1][Provincial Government] may cause an election to be held under such rules (not inconsistent with the provisions of this Act) as shall be framed by such [1][Provincial Government]. *Ascertaining wishes of persons interested.*

9. Every member of a committee appointed as above shall hold his office for life, unless removed for misconduct or unfitness; *Tenure of office.*

and no such member shall be removed except by an order of the Civil Court as hereinafter provided. *Removal.*

10. Whenever any vacancy shall occur among the members of a committee appointed as above, a new member shall be elected to fill the vacancy by the persons interested as above provided. *Vacancies to be filled.*

The remaining members of the committee shall, as soon as possible, give public notice of such vacancy, and shall fix a day, which shall not be later than three months from the date of such vacancy, for an election of a new member by the persons interested as above provided, under rules for elections which shall be framed by the [1][Provincial Government]; *Procedure.*

and whoever shall be then elected, under the said rules, shall be a member of the committee to fill such vacancy.

If any vacancy as aforesaid shall not be filled up by such election as aforesaid within three months after it has occurred, the Civil Court, on the application of any person whatever, may appoint a person to fill the vacancy or may order that the vacancy be forthwith filled up by the remaining members of the committee, with which order it shall then be the duty of such remaining members to comply; and, if this order be not complied with, the Civil Court may appoint a member to fill the said vacancy. *When Court may fill vacancy.*

[2][*Explanation.*—In this section "Civil Court" means the principal Court of original civil jurisdiction in the district in which the mosques, temples or religious establishments for which the committee has been appointed or any of them are situate.]

11. No member of a committee appointed under this Act shall be capable of being, or shall act, also as a trustee, manager or superintendent of the mosque, temple or other religious establishment for the management of which such committee shall have been appointed. *No member of committee to be also trustee, etc., of mosque, etc.*

12. Immediately on the appointment of a committee as above provided for the superintendence of any such mosque, temple or religious establishment, and for the management of its affairs, the Board of Revenue, or the local agents acting under the authority of the said Board, shall transfer to such committee all landed or other property which at the time of appointment shall be under the superintendence, or in the possession of the said Board or local agents, and belonging to the said religious establishment, except as is hereinafter provided for; *On appointment of committee, Board and local agents to transfer property.*

and thereupon the powers and responsibilities of the Board and the local agents, in respect to such mosque, temple or religious establishment, and to *Termination of powers.*

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[1] Subs. by the A. O. for "L. G."

[2] Ins. by s. 3 of the [illegible] Endowments (Amendment) Act, [illegible]

or society, over which charity or society the High Court would have jurisdiction upon suit duly instituted, whether such trustee or trustees shall have been duly appointed by any power contained in any deed or instrument, or by the decree of the said Court, or by order made upon a petition to the said Court.

Money of minors and persons of unsound mind to be paid into Court.

46.[1] Where any minor or person of unsound mind shall be entitled to any money payable in discharge of any immoveable property, stock, Government securities or thing in action conveyed or transferred under this Act, it shall be lawful for the person by whom such money is payable to pay the same into the High Court, in trust in any cause then depending concerning such money, or, if there shall be no such cause, to the credit of such minor or person of unsound mind, subject to the order or disposition of the said Court;

and it shall be lawful for the said Court, upon petition in a summary way, to order any money so paid to be invested in Government securities, and to order payment or distribution thereof, or payment of the dividends or interest thereof as to the said Court shall seem reasonable.

Court may make decree in absence of trustee.

47.[1] Where in any suit commenced or to be commenced in the High Court it shall be made to appear to the Court that diligent search and enquiry have been made after any person made a defendant, who is only a trustee, to serve him with the process of the Court, and that he cannot be found, it shall be lawful for the said Court to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to it to be only a trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such trustee had been duly served with the process of the Court, and had appeared at the hearing of such cause:

Decree not effective without service of process.

Provided always that no such decree shall bind, affect or in any wise prejudice any person against whom the same shall be made without service of process upon him as aforesaid, his heirs, executors or administrators, for or in respect of any estate, right or interest which such person shall have at the time of making such decree for his own use or benefit, or otherwise than as a trustee as aforesaid.

s under charge- le with same stamp-duty as deeds of conveyance.

48.[2] Every order to be made under this Act, which shall have the effect of a conveyance of any immoveable property, or a transfer of any such stock, Government securities or thing in action as can only be transferred by stamped deed, or for the transfer of which a stamp is necessary, shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed executed or a transfer made by the person or persons holding such property or entitled to such stock, Government securities or thing in action.

Every such order shall be duly stamped for denoting the payment of the said duty.

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[1] *Cf.* the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 48 and 49, respectively.
[2] *Cf.* the Trustee Act, 1852 (15 & 16 Vict., c. 55), s. 13; since rep. by the Statute Law Revision Act, 1892.

49.[1] The High Court may order the costs and expenses of and relating to the petitions, orders, directions, conveyances and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the immoveable or moveable property or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the said Court shall think proper. Costs may be paid out of estate.

50.[1] Upon any petition being presented under this Act to the High Court, concerning a person of unsound mind, it shall be lawful for the said Court to make an order directing an enquiry whether such person is or is not of unsound mind, and incapable of managing himself and his affairs. Power to order enquiry concerning person of unsound mind.

Such order shall have the same effect as the like order made under section 1 of [2]Act XXXIV of 1858 (*to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter*), and the enquiry directed to be made shall be made in all respects in the manner declared and prescribed for making an enquiry under the last-mentioned Act. Effect of order.

The High Court may postpone making any order upon the petition presented as aforesaid, until any enquiry so directed to be made shall have been finally concluded. Postponement of order pending enquiry.

51.[1] Upon any petition under this Act being presented to the High Court it shall be lawful for the said Court to postpone making any order upon such petition until the right of the petitioner shall have been declared in a suit duly instituted for that purpose. Suit may be directed.

52.[3] Every order made or purporting to be made under this Act by the High Court shall be a complete indemnity to all persons whatsoever for any act done pursuant thereto; and it shall not be necessary for such persons to enquire concerning the propriety of such order, or whether the High Court has jurisdiction to make the same. Indemnity to persons acting under orders of Court.

53. Any order made by the High Court under this Act shall have the same effect and be executed in the same manner as a decree. Execution and effect of orders.

54. This Act may be cited as the Indian Trustee Act, 1866. Short title.

55. [*Application of Act to Straits Settlements.*] *Rep. by the Repealing Act, 1874 (XVI of 1874).*

THE TRUSTEES' AND MORTGAGEES' POWERS ACT, 1866

CONTENTS

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[1] Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60) [illegible]
[2] Act XXXIV of 1858 [illegible] by the Indian Lunacy Act, [illegible]
[3] Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60) [illegible]

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and no purchaser under any such sale shall be bound to enquire whether the persons making the same may or may not have in contemplation any particular re-investment of the purchase-money in the purchase of any other property or otherwise.

Trustees exercising power of sale, etc., empowered to convey.

4.[1], [2] For the purpose of completing any such sale as aforesaid, the persons empowered to sell as aforesaid shall have full power to convey or otherwise dispose of the property in question, in such manner as may be necessary.

Money arising from sales to be laid out in manner indicated in will, etc.

5.[1], [2] The money so received upon any such sale as aforesaid shall be laid out in the manner indicated in that behalf in the will, deed or instrument containing the power of sale;

Until so laid out, money to be invested in Government securities.

and until the money to be received upon any sale as aforesaid shall be so disposed of, the same shall be invested at interest in Government securities for the benefit of such persons as would be entitled to the benefit of the money, and the interest and profits thereof, in case such money were then actually laid out as aforesaid:

Provided that if the will, deed or instrument shall contain no such indication, the persons empowered to sell as aforesaid shall invest the money so received upon any such sale in their names upon Government securities in India, and the interest of such securities shall be paid and applied to such person or persons for such purposes and in such manner as the rents and profits of the property sold as aforesaid would have been payable or applicable in case such sale had not been made.

Powers of Mortgagees.[3]

Powers incident to mortgages.

6.[2] Where any principal-money is secured or charged by deed on any immoveable property, or on any interest therein, the person to whom such money shall for the time being be payable, his executors, administrators and assigns, shall, at any time after the expiration of one year from the time when such principal-money shall have become payable, according to the terms of the deed, or after any interest on such principal-money shall have been in arrear for six months, or after any omission to pay any premium on any insurance which by the terms of the deed ought to be paid by the person entitled to the property subject to the charge, have the following powers to

[1] Ss. 4 and 5 rep. in places to which the Indian Trusts Act, 1882 (2 of 1882) extends or is extended. See s. 2 of that Act.

[2] *Cf.* the Trustee Act, 1860 (23 & 24 Vict., c. 145), ss. 3, 4 and 11, respectively. This Act is now rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict, c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

[3] As to the application of ss. 6 to 19 to certain English mortgages, *see* the Transfer of Property Act, 1882 (4 of 1882), s. 69.

the same extent (but no more) as if they had been in terms conferred by the person creating the charge, namely :—

1st, a power to sell or concur with any other person in selling the whole or any part of the property by public auction or private contract subject to any reasonable conditions he may think fit to make, and to rescind or vary contracts for sale, or buy in and resell the property, from time to time, in like manner :

2nd, a power to appoint or obtain the appointment of a receiver of the rents and profits of the whole or any part of the property in manner hereinafter mentioned.

7.[1] Receipts for purchase-money given by the person or persons exercising the power of sale hereby conferred shall be sufficient discharges to the purchasers, who shall not be bound to see to the application of such purchase-money. Receipts for purchase-money sufficient discharges.

8.[1] No such sale as last aforesaid shall be made until after six months' notice in writing given to the person or one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of such property ; Notice to be given before sale.

but when a sale has been effected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that no such notice as aforesaid had been given ; but any person damnified by any such unauthorized exercise of such power shall have his remedy in damages against the person or persons selling. Purchaser protected from inquiry as to [illegible] of sale.

9.[1] The money arising by any sale effected as aforesaid shall be applied by the person receiving the same as follows :— Application of purchase-money.

first, in payment of all the expenses incident to the sale or incurred in any attempted sale ;

secondly, in discharge of all interest and costs then due in respect of the charge in consequence whereof the sale was made ; and

thirdly, in discharge of all the principal moneys then due in respect of such charge ;

and the residue of such money shall be paid to the person entitled to the property subject to the charge sold, his executors, administrators or assigns, as the case may be.

10.[1] The person exercising the power of sale hereby conferred shall have power by deed to convey or assign to and vest in the purchaser the property sold for all the estate and interest therein which the person who created the charge had power to dispose of. Conveyance by mortgagee.

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[1] [illegible]

(*Leases. Rent-charges. Powers.*)

in the same manner as if no such license had been given; and the condition or right of re-entry shall be and remain in all respects as if such license had not been given, except in respect of the particular matter authorized to be done.

Restricted operation of partial licenses.

21.[1] Where in any lease heretofore granted, or to be hereafter granted there is or shall be a power or condition of re-entry on assigning or underletting, or doing any other specified act without license, and a license at any time after the passing of this Act shall be given to one of several lessees or co-owners to assign or under-let his share or interest, or to do any other act prohibited to be done without license, or shall be given to any lessee or owner, or any one of several lessees or owners, to assign or under-let part only of the property, or to do any other such act as aforesaid in respect of part only of such property, such license shall not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee or co-lessees, or owner or owners of the other shares or interests in the property, or by the lessee or owner of the rest of the property (as the case may be) over or in respect of such shares or interests or remaining property, but such right of re-entry shall remain in full force over or in respect of the shares or interests or property not the subject of such license.

Apportionment of conditions of re-entry in certain cases.

22.[1] Where the reversion upon a lease is severed, and the rent or other reservation is legally apportioned, the assignee of each part of the reversion shall, in respect of the apportioned rent or other reservation allotted or belonging to him, have and be entitled to the benefit of all conditions or powers of re-entry for non-payment of the original rent or other reservation, in like manner as if such conditions or powers had been reserved to him as incident to his part of the reversion in respect of the apportioned rent or other reservation allotted or belonging to him.

Rent-charges.

Release of part of land charged, not to be an extinguishment.

23.[1] The release from a rent-charge of part of the immoveable property charged therewith shall not extinguish the whole rent-charge, but shall operate only to bar the right to recover any part of the rent-charge out of the property released, without prejudice nevertheless to the rights of all persons interested in the property remaining unreleased, and not concurring in or confirming the release.

Powers.

Mode of execution of powers.

24.[1] A deed hereafter executed in the presence of and attested by two or more witnesses in the manner in which deeds are ordinarily executed and attested shall, so far as respects the execution and attestation thereof, be a

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[1] *Cf.* the Law of Property Amendment Act, 1859 (22 & 23 Vict., c. 35), ss. 2, 3, 10 and 12, respectively.

valid execution of a power of appointment by deed or by any instrument in writing, not testamentary, notwithstanding it shall have been expressly required that a deed or instrument in writing, made in exercise of such power, should be executed or attested with some additional or other form of execution or attestation or solemnity:

Provided always that this provision shall not operate to defeat any direction in the instrument creating the power, that the consent of any particular person shall be necessary to a valid execution, or that any act shall be performed in order to give validity to any appointment having no relation to the mode of executing and attesting the instrument;

and nothing herein contained shall prevent the donee of a power from executing it conformably to the power by writing or otherwise than by an instrument executed and attested as an ordinary deed; and to any such execution of a power this provision shall not extend.

25.[1] Where by any will which shall come into operation after the passing of this Act, the testator shall have charged his immoveable property or any specific portion thereof with the payment of his debts, or with the payment of any legacy or other specific sum of money, and shall have devised the property so charged to any trustee or trustees for the whole of his estate or interest therein, and shall not have made any express provision for the raising of such debts, legacy or sum of money out of such property, it shall be lawful for the said trustee or trustees, notwithstanding any trusts actually declared by the testator, to raise such debts, legacy or money, as aforesaid, by a sale and absolute disposition by public auction or private contract of the said property or any part thereof, or by a mortgage of the same, or partly in one mode and partly in the other;

and any deed or deeds of mortgage so executed may reserve such rate of interest and fix such period or periods of repayment as the person or persons executing the same shall think proper.

26.[1] The powers conferred by the last preceding section shall extend to all and every person or persons in whom the property devised shall for the time being be vested by survivorship, descent or devise, or to any person or persons who may be appointed under any power in the will or by the High Court, to succeed to the trusteeship vested in such trustee or trustees as aforesaid.

27.[1] If any testator who shall have created such charge as is described in section 25 of this Act shall not have devised the property charged as aforesaid in such terms as that his whole estate and interest therein shall become vested in any trustee or trustees, the executor or executors (if any) for the time being named in such will shall have the same or the like power of raising the said monies as is hereinbefore vested in the trustee

[illegible]

in trust of the said property, and such power shall from time to time devolve on and become vested in the person or persons (if any) in whom the executorship shall for the time being be vested.

Purchasers, etc., not bound to enquire as to powers.

28.[1] Purchasers or mortgagees shall not be bound to enquire whether the powers conferred by sections 25, 26 and 27 of this Act, or any of them shall have been duly and correctly exercised by the person or persons acting in virtue thereof.

Inheritance.

Descent how traced.

29.[1] In cases of intestacies occurring before the first day of January, 1866, where there shall be a total failure of heirs of the purchaser, or where any immoveable property shall be descendible as if an ancestor had been the purchaser thereof, and there shall be a total failure of the heirs of such ancestor, then and in every such case the property shall descend, and the descent shall thenceforth be traced, from the person last entitled to the property as if he had been the purchaser thereof.

[1]This section shall be read as part of [2]Act No. XXX of 1839 (*for the amendment of the Law of Inheritance*).

Assignment of Moveables and Terms for Years.

Assignment to self and others.

30.[1] Any person shall have power to assign moveable property now by law assignable, terms for years of immoveable property, and estates by *elegit* directly to himself and another person or other persons or corporation, by the like means as he might assign the same to another.

Purchasers.

Not to be bound to see to the application of purchase-money, etc.

31.[3] The *boná fide* payment to and the receipt of any person to whom any purchase or mortgage-money shall be payable upon any express or implied trust shall effectually discharge the person paying the same from seeing to the application, or being answerable for the misapplication thereof.

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[1] *Cf.* the Law of Property Amendment Act, 1859 (22 & 23 Vict., c. 35), ss. 17, 19, 20 and 21, respectively.

[2] The Inheritance Act, 1839 (30 of 1839). *Rep.*, except as to descents before 1866, by the Repealing Act, 1868 (8 of 1868).

[3] *Cf.* the Law of Property Amendment Act, 1859 (22 & 23 Vict., c. 35), s. 23. (The limiting clause "unless the contrary shall be expressly declared by the instrument creating the trust or security" has not been reproduced.)

(Investment of Trust-funds.—Trustees and Executors.)

Investment of Trust-funds

32.[1] Trustees having trust-money in their hands which it is their duty to invest at interest shall be at liberty, at their discretion, to invest the same in any Government securities; and such trustees shall also be at liberty, at their discretion, to call in any trust-funds invested in any other securities than as aforesaid, and to invest the same on any such securities as aforesaid, and also from time to time, at their discretion, to vary any such investments as aforesaid for others of the same nature:

Provided always that no such original investment as aforesaid, and no such change of investment as aforesaid, shall be made where there is a person under no disability entitled in possession to receive the income of the trust-fund for his life, or for a term of years determinable with his life, or for a greater estate, without the consent in writing of such person.

Trustees and Executors

33.[1] In all cases where any property is held by trustees in trust for a minor, either absolutely or contingently on his attaining majority, or on the occurrence of any event previously to his attaining majority, it shall be lawful for such trustees, at their sole discretion, to pay to the guardians (if any) of such minor, or otherwise to apply for or towards the maintenance or education of such minor, the whole or any part of the income to which such minor may be entitled in respect of such property, whether there be any other fund applicable to the same purpose, or any other person bound by law to provide for such maintenance or education, or not;

and such trustees shall accumulate all the residue of such income by way of compound interest, by investing the same and the resulting income thereof from time to time in proper securities, for the benefit of the person who shall ultimately become entitled to the property from which such accumulations shall have arisen:

Provided always that it shall be lawful for such trustees at any time, if it shall appear to them expedient, to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year.

34.[1] Whenever any trustee, either original or substituted, [illegible]

[illegible]

(*Trustees and Executors.*)

shall have been fully discharged and performed, it shall be lawful for the person or persons nominated for that purpose by the deed, will or other instrument creating the trust (if any), or if there be no such person, or no such person able and willing to act, then for the surviving or continuing trustees or trustee for the time being, or the acting executors or executor or administrators or administrator, of the last surviving and continuing trustee, or for the retiring trustees, if they shall all retire simultaneously, or for the last retiring trustee, or where there are two or more classes of trustees of the instrument creating the trust, then for the surviving or continuing trustees or trustee of the class in which any such vacancy or disqualification shall occur (and for this purpose any refusing or retiring trustee shall, if willing to act in the execution of the power, be considered a continuing trustee), by writing to appoint any other person or persons to be a trustee or trustees in the place of the trustee or trustees so dying, or being absent from British India, or desiring to be discharged, or refusing or becoming unfit or incapable to act as aforesaid.

Transfer of trust-property to new trustees.

So often as any new trustee or trustees shall be so appointed as aforesaid, all the trust-property (if any) which for the time being shall be vested in the surviving or continuing trustees or trustee, or in the heirs, executors or administrators of any trustee, shall with all convenient speed be conveyed and transferred so that the same may be legally and effectually vested in such new trustee or trustees, either solely or jointly with the surviving or continuing trustees or trustee, as the case may require.

Powers, etc., of new trustees.

Every new trustee to be appointed as aforesaid, as well before as after such conveyance or transfer as aforesaid, and also every trustee appointed by any High Court, either before or after the passing of this Act, shall have the same powers, authorities and discretions, and shall in all respects act as if he had been originally nominated a trustee by the deed, will or other instrument (if any) creating the trust.

Appointment of Official Trustee to be a trustee.

The Official Trustee may with his consent, and by the order of the High Court, be appointed under this section in any case in which only one trustee is to be appointed and such trustee is to be the sole trustee.

Appointment in place of trustee predeceasing testator.

35.[1] The power of appointing new trustees hereinbefore contained may be exercised in cases where a trustee nominated in a will has died in the lifetime of the testator.

Trustees' receipts to be discharges.

36.[1] The receipts in writing of any trustees or trustee for any money payable to them or him by reason, or in the exercise, of any trusts or powers reposed or vested in them or him, shall be sufficient discharges for the money therein expressed to be received, and shall effectually exonerate the persons paying such money from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

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[1] *Cf.* the Trustee Act, 1860 (23 & 24 Vict., c. 145), ss. 28 and 29. This Act is now rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

Ss. 35 and 36 rep. in places to which the Indian Trusts Act, 1882 (2 of 1882) extends or is extended, *see* s. 2 of that Act.

(*Trustees and Executors.*)

37.[1, 2] Every deed, will or other instrument creating a trust, either expressly or by implication, shall, without prejudice to the clauses actually contained therein, be deemed to contain a clause in the words or to the effect following, that is to say,— [illegible]

"that the trustees or trustee for the time being of the said deed, will or other instrument shall be respectively chargeable only for such moneys, stocks, funds and securities as they shall respectively actually receive, notwithstanding their respectively signing any receipt for the sake of conformity, and shall be answerable and accountable only for their own acts, receipts, neglects or defaults, and not for those of each other, nor for any banker, broker or other person with whom any trust moneys or securities may be deposited, nor for the insufficiency or deficiency of any stocks, funds or securities, nor for any other loss, unless the same shall happen through their own wilful default respectively; and also that it shall be lawful for the trustees or trustee for the time being of the said deed, will or other instrument to reimburse themselves or himself, or pay or discharge out of the trust premises, all expenses incurred in or about the execution of the trusts or powers of the said deed, will or other instrument."

38.[3] It shall be lawful for any executor to pay any debts or claims upon any evidence that they may think sufficient, and to accept any composition or any security for any debts due to the deceased, and to allow any time for payment of any such debts as they shall think fit, and also to compromise, compound or submit to arbitration all debts, accounts, claims and things whatsoever relating to the estate of the deceased, and for any of the purposes aforesaid to enter into, give and execute such agreements, instruments of composition, releases and other things as they shall think expedient, without being responsible for any loss to be occasioned thereby. Executors may compound, etc.

39. [*Trustees, etc., making payment under power of attorney not liable by reason of death of party giving power.*] *Rep. by the Power-of-Attorney Act, 1882 (VII of 1882), s. 6.*

40.[3] Where an executor or administrator [illegible]

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[1] [illegible]

[2] Cf. the Trustee Act [illegible]

[3] Cf. the Law of Property [illegible]

claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised or agreed to be demised, although the period for laying out the same may not have arrived, and shall have assigned the lease or agreement for a lease to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part, or any further part (as the case may be), of the estate of the deceased to meet any future liability under the said lease or agreement for a lease.

The executor or administrator so distributing the residuary estate shall not, after having assigned the said lease or agreement for a lease, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said lease or agreement for a lease.

Nothing herein contained shall prejudice the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

[A]s to liability [o]f executor, [e]tc., in [r]espect of [r]ents, etc., in [c]onveyance [o]n rent-[c]harge.

41.[1] In like manner, where an executor or administrator liable as such to the rent, covenants or agreements contained in any conveyance on chief rent or rent-charge (whether any such rent be by limitation of use, grant or reservation), or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said conveyance or agreement for a conveyance, as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and shall have conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively without appropriating any part or any further part (as the case may be) of such estate to meet any future liability under the said conveyance or agreement for a conveyance.

The executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said conveyance or agreement for conveyance.

Nothing herein contained shall prejudice the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

[1] *Cf.* the Law of Property Act, 1859 (22 & 23 Vict., c. 35), s. 28.

(*Trustees and Executors. General Provisions*)

42.[1] Where an executor or administrator shall have given such or the like notices as in the opinion of the Court in which such executor or administrator is sought to be charged would have been given by the High Court in an administration suit for creditors and others to send in to the executor or administrator their claims against the estate of the testator or intestate, such executor or administrator shall, at the expiration of the time named in the said notices, or the last of the said notices for sending in such claims, be at liberty to distribute the assets of the testator or intestate, or any part thereof, amongst the parties entitled thereto, having regard to the claims of which such executor or administrator has then notice, and shall not be liable for the assets or any part thereof so distributed to any person of whose claim such executor or administrator shall not have had notice at the time of distribution of the said assets, or a part thereof, as the case may be.

Nothing in the present Act contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, into the hands of the person or persons who may have received the same respectively.

43.[1] Any [2][trustee,] executor or administrator shall be at liberty, without the institution of a suit, to apply by petition to any Judge of the High Court for the opinion, advice or direction of such Judge on any question respecting the [2][management or] administration of the [2][trust property or] the assets of any testator or intestate.

Such application shall be served upon, or the hearing thereof shall be attended by, all persons interested in such application, or such of them as the said Judge shall think expedient.

The [2][trustee,] executor or administrator acting upon the opinion, advice or direction given by the said Judge shall be deemed, so far as regards his own responsibility, to have discharged his duty as such [2][trustee,] executor or administrator in the subject-matter of the said application:

Provided, nevertheless, that this Act shall not extend to indemnify any [2][trustee,] executor or administrator, in respect of any act done in accordance with such opinion, advice or direction as aforesaid, if such [2][trustee,] executor or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction; and the costs of such application as aforesaid shall be in the discretion of the Judge to whom the said application shall be made.

General Provisions

44.[1] For the purposes of this Act a person shall be deemed [illegible] to the person [illegible] to the receipt of the rents and profits of any [illegible] immoveable property, although [illegible] estate [illegible] charged [illegible]

[1] Cf. the Law of Property [illegible]
[2] These words were [illegible] [illegible]

notwithstanding incumbrances. by himself or by any former owner, or otherwise howsoever to any extent: but the estates or interests of the parties to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and income as aforesaid, unless they shall concur therein.

Operation of Act. **45.**[1] The provisions contained in this Act shall, except as hereinbefore otherwise provided, extend only to persons entitled or acting under a deed, will, codicil, or other instrument executed after this Act comes into operation or under a will or codicil confirmed or revived by a codicil executed after that date, and only to property in British India and to cases to which English law is applicable.

Short title. **46.** This Act may be called the Trustees' and Mortgagees' Powers Act, 1866.

47. [*Application of Act to Straits Settlements.*] *Rep. by the Repealing Act, 1874 (XVI of 1874).*

THE GANGES TOLLS ACT, 1867.

CONTENTS.

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[1] *Cf.* the Trustee Act, 1860 (23 & 24 Vict., c. 145), s. 34. This Act is now rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

ACT NO. I OF 1867[1]

[18th January, 1867.]

An Act to authorize the levy of Tolls for the improvement of the navigation of the Ganges.

WHEREAS it is expedient to authorize the levy of tolls [illegible] flats and boats plying on the river Ganges[2] * * * * * ; It is hereby enacted as follows:—

1. In construing this Act,—

* * * * * * * * * * * * * * * * * * * *

"Master" shall include every person (except a pilot) having [illegible] or charge of any steamer, flat or boat; and

"Magistrate" shall include any person exercising any of the powers of a Magistrate.

[3][**1A.** The said Act shall extend only to so much of the United Provinces as on the 18th January, 1867, formed part of the North-Western Provinces of the Presidency of Fort William.]

2. A toll not exceeding twelve annas per hundred maunds shall be payable, at such place or at one of such places as the [4][Provincial Government] [illegible] shall from time to time direct, in respect of every steamer, flat and boat of the burden of two hundred maunds and upwards which shall pass up or down the Ganges by such place or any one of such places:

Provided that toll shall be levied in the case of [illegible] five per cent of the burden, and in the case of flats [illegible] of the burden.

3. The burden of steamers and flats shall [illegible] be determined in conformity with the [illegible] practised by the Master Attendant at Calcutta [illegible] of port dues which such steamers and flats would be liable to pay [illegible] within the limits of the port of Calcutta.

The following [illegible] shall be [illegible] to actual flats [illegible] [illegible] this Act [illegible] shall be [illegible]

[illegible]

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[1] [illegible]

[2] [illegible]

[3] [illegible]

[4] [illegible]

Thereupon the toll shall be calculated according to the even hundreds of maunds, fractions of a hundred being neglected.

4. [1][*Application of funds raised under Act*]. *Rep. by the A. O.*

Appointment of Collector of tolls.

5. The [2][Provincial Government] may appoint any person [3][it] may think fit to collect the tolls payable under this Act at any place or places under [4][its] government, and may from time to time remove any such person and appoint another person in his stead.

List of tolls.

6. Sections 2 and 3 of this Act, and a list of the rates of toll and of the place or places of collecting the toll leviable under this Act, shall be at all times exhibited at such place or places in the English and Urdu languages, and shall also be published thrice in the [5][Official Gazette.]

Person to collect tolls, and receiver to give voucher for same.

7. Every person so appointed shall collect the tolls leviable under this Act by himself, or by any officer in his establishment (if any) whom he shall appoint in this behalf.

The officer to whom any such toll shall be paid shall grant to the person paying the same a voucher in writing under his hand, describing the name of his office and the place at which such payment shall be made, the name (if any), burden and other proper description of the steamer, flat or boat, and the voyage in respect of which such toll shall be paid.

Payment of tolls how enforced.

8. If any toll leviable under this Act in respect of any steamer, flat or boat shall not be paid on demand to the person authorized to collect the same, it shall be lawful for such person to seize such steamer, flat or boat, and any furniture thereof, and to detain the same; and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest Collector or Deputy Collector of the district in which the seizure has been made, or other public officer duly authorized by the [2][Provincial Government] in this behalf.

On receipt of such report the Collector, Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said steamer, flat or boat, and any furniture thereof.

The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale.

If the toll and also any expenses occasioned by non-payment be not paid or sufficient cause for non-payment be not shown, at or before the time of sale, to the Collector, Deputy Collector or other officer as aforesaid, such officer shall sell the steamer, flat or boat, and furniture seized, or so much

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[1] *See*, however, para. 4 of the India and Burma (Transitory Provisions) Order, 1937. S. 4 read as follows:

"The funds raised by the tolls payable under this Act shall be applicable, at the discretion of the Lieutenant-Governor, to defray the expenses of improving and facilitating the navigation of the Ganges between Allahabad and Dinapur."

[2] Subs. by the A. O. for "Lieutenant-Governor".

[3] Subs. by the A. O. for "he".

[4] Subs. by the A. O. for "his".

[5] Subs. by the A. O. for "local gazette".

thereof as may be necessary to pay the toll, and also any expenses occasioned by non payment

So much of the property seized as may not have been sold and so much of the sale proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non payment, shall be returned to the master of the steamer, flat or boat

9. Notwithstanding anything in this Act contained the person authorised to collect the tolls payable under this Act at any such place as last aforesaid may, in his own name, sue for and recover, on behalf of the [Provincial Government] the amount of any tolls payable to him under this Act by suit in any of the Civil Courts against the owner or master of any steamer, flat or boat liable thereto

10. Upon the refusal or neglect of any owner or master of any steamer flat or boat liable to pay toll under this Act to satisfy the person authorised to collect such toll as to what is the true burden, as ascertained under section 3 of this Act, of the steamer flat or boat it shall be lawful for such person to cause such steamer, flat or boat to be measured at the expense of the master thereof, and such expense shall be recoverable in the same manner as tolls payable under this Act,

or it shall be lawful for such person to deliver to the master or owner of such steamer, flat or boat or to leave for him on board such steamer flat or boat, a notice in writing specifying what in his judgment is the burden of the steamer, flat or boat and the burden specified in such notice shall be deemed to be the real burden of the steamer flat or boat and be treated as such for all the purposes of this Act until the owner or master of the steamer flat or boat shall give sufficient proof of the true burden thereof as ascertained under section 3 of this Act

11. The master of any steamer, flat or boat which shall depart from, or arrive at, any place as last aforesaid, upon or in the course of or at the termination of any voyage, shall upon demand by any person authorised to collect or receive the tolls under this Act specify whence he is come and whither he is bound

If any master of any such steamer flat or boat shall refuse or neglect so to do or shall make a false statement as to the place from which he is come or to which he is bound, or shall endeavour to evade the payment of any toll payable under this Act he shall be punishable by a Magistrate with a fine not exceeding two hundred rupees

12. If any dispute shall arise [illegible] or boat to the payment of toll under this Act [illegible] any steamer flat or boat or the amount of toll payable [illegible] charges [illegible] determined by a Magistrate and the decision [illegible] Magistrate [illegible]

[illegible]

Provincial Government may alter tolls.

13. The [1][Provincial Government] may, from time to time as [2][it] may think fit, reduce all or any of the tolls payable under this Act, in respect of all vessels or of any particular class or classes of vessels, and again raise such tolls to any amount not exceeding the amount hereinbefore specified.

[2][It] may also prescribe a mode or modes of measurement for burden differing from those prescribed in section 3 of this Act: Provided that the tolls payable under such new mode or modes of measurement shall not exceed the amount specified as aforesaid.

Power to prohibit construction of bandhels.

14. Whenever, in the opinion of such officer as the [1][Provincial Government] shall appoint in this behalf, the construction of any bandhel or other contrivance for fishing or for any other purpose, in any part of the Ganges [3][below Allahabad], is likely to cause obstruction to the free and safe navigation of such part, he may by notice in writing, to be served on the owner or person in charge of such bandhel or other contrivance, or, if such owner or other person cannot be found, to be affixed at some conspicuous place in the nearest village, prohibit the construction of such bandhel or other contrivance.

Penalty for causing obstruction to navigation.

15. Any person who shall wilfully disobey any prohibition under the last preceding section, or shall wilfully cause or aid in causing any obstruction to the navigation of the Ganges [3][below Allahabad], or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction or in repairing such damage.

Rules relating to navigation.

16. It shall be lawful for the [1][Provincial Government] from time to time to make[4] rules not repugnant to any law in force, and to repeal, alter and amend such rules, for the management of the navigation of any part of the Ganges [3][below Allahabad], and for regulating the conduct of persons employed for any of the purposes of this Act; and the [1][Provincial Government] may affix fines as penalties for the infringement of such rules, not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement.

Such rules may contain directions for any of the following amongst other matters :—

(a) for fixing the number and the width of steamers, flats and boats to be allowed to pass into or out of or through any part of the Ganges [3][below Allahabad] at one time or abreast;

(b) for determining the length of time during which steamers, flats or boats may remain stationary on such part, and the amount of demurrage to be paid by steamers, flats or boats remaining stationary beyond such time;

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[1] Subs. by the A. O. for "Lieutenant-Governor".
[2] Subs. by the A. O. for "he".
[3] Subs. by the A. O. for "between Allahabad and Dinapur".
[4] For navigation rules under s. 16, see U. P. Local R. and O.

(c) for regulating the mode in which, and the place or places at which, tolls [1]are to be levied under this Act,

(d) for the removal of sunken vessels and obstructions,

(e) and for the storing and disposal of the cargo of steamers, flats and boats seized under this Act

17. All fines imposed under this Act may be recovered in the manner prescribed by the [2]Code of Criminal Procedure,[3] * * * Recovery of fines

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[4][THE PUBLIC GAMBLING ACT, 1867]

CONTENTS

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[1] For rules as to tolls *see* U P Local R and O

[2] See now ss 386 387 and 389 of the Code of Criminal Procedure 1898 (5 of 1898)

[3] The words and may be disposed of as the Lieutenant Governor shall from time to time direct rep by the A O

[4] Short title given by the Amending Act 1897 (5 of 1897)

ACT No. III OF 1867.

[25th January, 1867.]

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, [1][and the Central Provinces].

Preamble.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories,[2] respectively, subject to the Governments of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William [3][and] of the Lieutenant-Governor of the Punjab, and to the administrations of the Chief Commissioner of Oudh, [4][and of the Chief Commissioner of the Central Provinces];

It is hereby enacted as follows:—

Interpretation-clause.

1. In this Act—

[5]* * * * * * * *

"Common gaming-house."

[6] "Common gaming-house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever:

[7]* * * * * * *

For Statement of Objects and Reasons, see Gazette of India, 1866, p. 976; for report of the Select Committee, see Gazette of India, 1867, Supplement, p. 44; and for Proceedings in Council, see Gazette of India, 1866, p. 662, and Gazette of India, 1867, pp. 48 and 52.

The Act was declared to be in force in the tract of land lying between the railway station at Satna and the eastern boundary of the Jubbulpore District in the Central Provinces by the Scheduled Districts Act, 1874 (14 of 1874), s. 10 and in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3.

It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in—

Coorg	See Gazette of India,	1878, Pt. I, p. 373.
The Tarai Parganas . .	Ditto	1876, Pt. I, p. 505.

The Act, as amended by the U. P. Public Gambling Act, 1917 (U. P. Act I of 1917), and the U. P. Public Gambling (Amendment) Act, 1925 (U. P. Act 1 of 1925), has been extended to Ajmer-Merwara by notification under the same Act, see Gazette of India, 1931, Pt. IIA, p. 125.

[1] Subs. by the Amending Act, 1903 (1 of 1903), for "the C. P. and British Burma".

[2] I.e., the U. P., the Punjab, the N.-W. F. P. and the C. P.

[3] Ins. by the Amending Act, 1891 (12 of 1891), Sch. II.

[4] Subs. by the Amending Act, 1903 (1 of 1903) for "of the Chief Commissioner of the C. P. and of the Chief Commissioner of British Burma".

[5] Definitions of "Lieutenant-Governor" and "Chief Commissioner" rep. by the A. O.

[6] In the U. P. and the C. P. this definition has been replaced by definitions of "Gaming", "Instruments of gaming" and "Common gaming-house," see the U. P. Public Gambling (Amendment) Act, 1917 (U. P. Act 1 of 1917), and the U. P. Public Gambling (Amendment) Act, 1925 (U. P. Act 1 of 1925) and the Public Gambling (C. P. Amendment) Act, 1927 (C. P. Act 3 of 1927). The U. P. Amending Acts have also been extended to Ajmere-Merwara.

[7] The clauses relating to "Number" and "Gender" rep. by the Second Repealing and Amending Act, 1914 (17 of 1914), s. 3 and Sch. II.

2. [1][Sections 13 and 17] of this Act shall extend to the [illegible] territories; and it shall be competent to the [2][Provincial [illegible]] [illegible]ever [3][it] may think fit, to extend, by a notification to be [illegible] successive numbers of the Official Gazette, all or any of the [illegible] of this Act to any city, town, suburb, railway-station house [illegible] not more than three miles distant from any part of such [illegible] the territories subject to [4][its] government or [illegible] notification to define, for the purposes of this Act, the [illegible] town, suburb or station-house, and from time to time [illegible] defined.

From the date of any such extension, so much of [illegible] force of law which shall be in operation in the [illegible] sion shall have been made, as shall be inconsistent with [illegible] section so extended, shall cease to have effect in such [illegible]

3. Whoever, being the owner or occupier, or having [illegible] house, walled enclosure, room or place] situate within the [illegible] Act applies, opens, keeps or uses the same as a common [illegible]

whoever, being the owner or occupier of any such [5][house, [illegible] room or place] as aforesaid, knowingly or wilfully permits the [illegible] opened, occupied, used or kept by any other person as a [illegible] house; and

whoever has the care or management of, or in any [illegible] ducting, the business of any [5][house, walled [illegible] aforesaid, opened, occupied, used or kept for the [illegible]

whoever advances or furnishes money for the [illegible] persons frequenting such [5][house, walled [illegible]

shall be liable to a fine not exceeding [illegible]
f 1860 ment of either description,[6] as defined [illegible] not exceeding three months.[7]

4. Whoever is found in any such [5][house, [illegible] playing or gaming with cards, dice, [illegible] gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description,[6] as
of 1860 defined in the Indian Penal Code, for any term not exceeding one month;[7]

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[1] Subs by the Amending Act, 1891 (12 of 1891) for "ss. 13, 17 and 18".

[2] Subs by the A O. for "Lieutenant Governor or the Chief Commissioner, as the case may be".

[3] Subs. by the A O for "he".

[4] Subs. by the A. O. for "his".

[5] These words have been amended in the U P. by the U. P. Public Gambling (Amendment) Act, 1917 (U. P. Act 1 of 1917), in the Punjab by the Public Gambling (Punjab Amendment) Act, 1929 (Punjab Act 1 of 1929) and in the C. P. by the Public Gambling (C. P. [illegible]) Act, 1927 (C. P. Act 3 of 1927).

[6] *See* s. 53 of the Code.

[7] As to enhanced punishment for a second conviction of an offence under s 15 of this Act.

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Powers to enter and authorise police to enter and search.

5. If the Magistrate of a district[1] or other officer invested with the full powers of a Magistrate,[1] or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any [2][house, walled enclosure, room or place], is used as a common gaming-house,

he may either himself enter, or by his warrant authorise any officer of police, not below such rank as the [3][Provincial Government] shall appoint in this behalf to enter with such assistance as may be found necessary, by night or by day, and by force if necessary, any such [2][house, walled enclosure, room or place],

and may either himself take into custody, or authorise such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming;

and may seize or authorise such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein;

and may search or authorise such officer to search all parts of the [2][house, walled enclosure, room or place] which he or such officer shall have so entered when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorise such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any [2][house, walled enclosure, room or place] entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such [2][house, walled enclosure, room or place], is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested, by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged

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[1] *Read* District Magistrate and Magistrate of the first class, respectively, *see* Code of Criminal Procedure, 1898 (5 of 1898), s. 3.

[2] *See* foot-note 5 on p. 465, *supra*.

[3] Subs. by the A. O. for "Lieutenant-Governor or Chief Commissioner".

to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non payment of such penalty and costs, or in the first instance if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month

On conviction for keeping a gaming house instruments of gaming to be destroyed

8. On conviction of any person for keeping or using any such common gaming house, or being present therein for the purpose of gaming the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled

Proof of playing for stake un necessary

9. It shall not be necessary, in order to convict any person of keeping a common gaming house, or of being concerned in the management of any common gaming house, to prove that any person found playing at any game was playing for any money, wager or stake

Magistrate may require any person apprehended to be sworn and give evidence

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any [1][house, walled enclosure room or place] entered under the provisions of this Act to require any such persons to be examined on oath or solemn affirmation and give evidence touching any unlawful gaming in such [1][house walled enclosure room or place] or touching any act done for the purpose of preventing obstructing or delaying the entry into such [1][house, walled enclosure room or place] or any part thereof of any Magistrate or officer authorised as aforesaid

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid or from being so examined at any subsequent time by or before the same or any other Magistrate or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid on the ground that his evidence will tend to criminate himself

Any such person so required to be examined as a witness who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be)
1860 of the Indian Penal Code

Witnesses indemnified.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming

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[1] See foot-note 5 on p. 465, supra.

Act not to apply to certain games.

[1]**12.** Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.

Gaming and setting birds and animals to fight in public streets.

13. A police-officer may apprehend without warrant—any person found [2][playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill] in any public street, place or thoroughfare situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

Such person when apprehended shall be brought without delay before a magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month;

Destruction of instruments of gaming found in public streets.

and such police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the magistrate may on conviction of the offender order such instruments to be forthwith destroyed.[3]

Offences, by whom triable.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such magistrate shall be restrained within the limits of his jurisdiction under the [4]Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict.

Penalty for subsequent offence.

[5]**15.** Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission [illegible] offence of the same description:

Provided that he shall n[illegible] le in any [illegible] to a fine exceeding six hundred rupees, or to impri[illegible] a term [illegible] one year.

Portion of fine may be paid to informer.

16. The magistrate tryin[illegible] y dire[illegible] ion of any fine which shall be levied under s[illegible] of t[illegible] y part of the moneys or proceeds of article[illegible] red [illegible] under thi[illegible] Act, to be paid to an informer. [illegible]

Recovery and application of fines.

[illegible] l fines imposed unde[illegible] e ma[illegible]
p[illegible] section 61 of the [illegible]

[illegible] been rep. in the U. [illegible]
by t[illegible] 1929.
[illegible] word " gaming [illegible]
[3] [illegible] ew section exc[illegible]
Act ha[illegible] by the U. P.
[4] Se[illegible] nal Procedu[illegible]
[5] Thi[illegible] ded in the
C. P. by t[illegible]
[6] The [illegible] (subjec[illegible]
section) be[illegible] ove[illegible]
shall from ti[illegible]

[1]18. [*Offences under this Act to be "offences" within the meaning of Penal Code*] *Rep by the Repealing Act, 1874 (XVI of 1874), s 1 and Sch, Pt I*

Act No IX of 1867

[8th February, 1867]

An Act to make further provision for suits by and against the Comptoir D'Escompte of Paris

WHEREAS it is expedient to make further provision for suits and other proceedings by or on behalf of or against the Comptoir D'Escompte of Paris, It is hereby enacted as follows — Preamble

1 In Act No VIII of 1864 (*to enable the "Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company*), sections 2, 3, 4, 5, 12 and 13, the expressions 'Chief Manager of the Agencies in British India of the said Comptoir D Escompte' and 'Chief Manager' shall be taken to include any person for the time being acting as Chief Manager of the said Agencies, or being or acting as Manager of such one of the same Agencies as may be situate within the jurisdiction of the Court in which the suit or proceeding mentioned in any of the said sections may be instituted or carried on Construction of certain sections of Act VIII of 1864

2. This Act shall be read with and taken as part of the said Act No VIII of 1864 Act to be read with Act VIII of 1864

Act No XI of 1867.

[1st March, 1867]

An Act to empower the Oriental Gas Company, Limited, to extend their operations to certain places in British India.

WHEREAS under or by virtue of Act No V of 1857 (*to confer certain powers on the Oriental Gas Company, Limited*), certain powers exercisable only in Calcutta and its environs were conferred on the Oriental Gas Company, Limited, And whereas it is expedient to empower the said Company to extend, with the previous sanction of the [2][Central Government], their

[1] A new s 18 exempting games of mere skill from the operation of the Act, has been added in the Punjab by the Punjab Act 1 of 1929

[2] Subs. by the A O for 'L G'

[1]18. [*Offences under this Act to be "offences" within the meaning of Penal Code*] *Rep by the Repealing Act, 1874 (XVI of 1874), s 1 and Sch, Pt I*

Act No IX of 1867

[8th February, 1867]

An Act to make further provision for suits by and against the Comptoir D'Escompte of Paris

WHEREAS it is expedient to make further provision for suits and other proceedings by or on behalf of or against the Comptoir D'Escompte of Paris, It is hereby enacted as follows — Preamble

1. In Act No VIII of 1864 (*to enable the "Comptoir D Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company*), sections 2, 3, 4, 5, 12 and 13, the expressions 'Chief Manager of the Agencies in British India of the said Comptoir D Escompte' and 'Chief Manager' shall be taken to include any person for the time being acting as Chief Manager of the said Agencies, or being or acting as Manager of such one of the same Agencies as may be situate within the jurisdiction of the Court in which the suit or proceeding mentioned in any of the said sections may be instituted or carried on Construction of certain sections of Act VIII of 1864

2. This Act shall be read with and taken as part of the said Act No VIII of 1864. Act to be read with Act VIII of 1864

Act No XI of 1867.

[1st March, 1867]

An Act to empower the Oriental Gas Company, Limited, to extend their operations to certain places in British India.

WHEREAS under or by virtue of Act No V of 1857 (*to confer certain powers on the Oriental Gas Company, Limited*), certain powers exercisable only in Calcutta and its environs were conferred on the Oriental Gas Company, Limited, And whereas it is expedient to empower the said Company to extend, with the previous sanction of the [2][Central Government], their Preamble.

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[1] ...operation of the Act, has been added

the Judges of certain Courts in British India. And whereas it has been doubted whether he or it is empowered to appoint persons to act temporarily as such Judges, and it is expedient to remove such doubts, It is hereby enacted as follows —

1. In every case in which the [1][Central Government], or the [2][Provincial Government], as the case may be, has power under any Act or Regulation to appoint a Judge of any Court in British India, such power shall be taken to include the power to appoint any person capable of being appointed a permanent Judge of such Court, to act as Judge of the same Court for such time as the [1][Central Government] or the [2][Provincial Government], as the case may be, shall direct. Every person so appointed to act temporarily as a Judge of any such Court shall have the powers and perform the duties which he would have had and been liable to perform in case he had been duly appointed a permanent Judge of the same Court — Power to appoint acting Judges.

2. Every such Act and Regulation shall be construed as if it contained a special clause to the purport or effect of the first section of this Act — Certain enactments to be construed as if they contained a clause like section 1 of this Act.

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[3][THE DARJEELING (HIGH COURT'S JURISDICTION) ACT, 1867]

ACT No XIX OF 1867.

[*8th March, 1867*]

An Act to make further provision for the Administration of justice in the District of Darjeeling

WHEREAS it is expedient to make further provision for the administration of justice in the District of Darjeeling, It is hereby enacted as follows — Preamble.

1. [*Repeal of Act X of 1863*] *Rep by the Repealing Act, 1874 (XVI of 1874*)

2. The High Court of Judicature for the Bengal Division of the Presidency of Fort William shall have and exercise, with regard to the District of Darjeeling all such jurisdiction and powers as it has and exercises with regard to any other territory [4] — High Court, Fort William, to exercise jurisdiction over Darjeeling.

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[1] Subs by the A O for G G of India in C
[2] Subs by ibid for L G
[3] [illegible] Amending Act, 1903 (I of 1903), S 3 [illegible] Proceed [illegible] the Indian (28 [illegible] 29 [illegible]
[4] i e, apparently, outside the local limits of its ordinary original civil jurisdiction

THE SARÁÍS ACT, 1867.

CONTENTS.

PREAMBLE.

SECTIONS.

ACT No. XXII OF 1867[1].

[*15th March, 1867.*]

An Act for the regulation of public Saráís and Puraos.

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[1] For Statement of Objects and Reasons to the Bill which was passed into law as Act 22 of 1867, *see* Gazette of India, 1867, p. 194, and for Proceedings in Council relating to the Bill, *see ibid*, Supplement, pp. 62, 72, 158, 225 and 232.

As to extent, *see* note to s. 17, *infra*.

The Act has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum. *See* Gazette of India, 1881, Pt. I, p. 504.

The Tarái of the Province of Agra. *See* Gazette of India, 1876, Pt. I, p. 505.

WHEREAS it is expedient to provide for the regulation of public Sarais and Puraos It is hereby enacted as follows — Preamble

1 [*Repeal of Bengal Regulation XIV of 1807, section 11, clause 5*] *Rep by the Amending Act 1891 (XII of 1891)*

2 In this Act, unless there be something repugnant in the subject or context,— Interpretation clause

"sarai" means any building used for the shelter and accommodation of travellers and includes, in any case in which only part of a building is used as a sarai the part so used of such building It also includes a purao so far as the provisions of this Act are applicable thereto Sarái

"keeper of a sarái" includes the owner and any person having or acting in the care or management thereof Keeper of a sarái

[1] "Magistrate of the District" means the chief officer charged with the executive administration of a district in criminal matters whatever may be his designation Magistrate of the District

[2] * * * * * * * *

3 Within six months after this Act shall come into operation the Magistrate of the District in which any sarái to which this Act shall apply may be situate shall and from time to time thereafter such Magistrate may give to the keeper of every such sarai notice in writing of this Act by leaving such notice for the keeper at the sarái, and shall by such notice require the keeper to register the sarái as by this Act provided Notice of this act to be given to keepers of saráis

Such notice may be in the form in the Schedule to this Act annexed or to the like effect

4 The Magistrate of the District shall keep a register in which shall be entered by such Magistrate or such other person as he shall appoint in this behalf, the names and residences of the keepers of all sarais within his jurisdiction and the situation of every such sarái Registers of saráis to be kept

No charge shall be made for making any such entry

5 After one month after the giving of such notice to register as by this Act provided the keeper of any sarai or any other person shall not receive any lodger or allow any person cattle sheep elephant camel or other animal, or any vehicle to halt or be placed in such sarái until the same and the name and residence of the keeper thereof shall have been registered as by this Act provided Lodgers etc, not to be received in sarais until registered

6 The Magistrate of the District may if he shall think fit, refuse to register as the keeper of a sarai a person who does not produce a certificate of character in such form and signed by such person as the [3][Provincial Government] shall from time to time direct Magistrate may refuse to register keeper not producing certificate of character

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[1] This reference should now be read as "District Magistrate" see para 2 of s 3 of the ... 1898)

... ide the plural and ... tered ... rep by the Repeal

... d the defin t on of "L G" rep ... y the A. O

Duties of keepers of saráís.

7. The keeper of a saráí shall be bound—

(1) when any person in such saráí is ill of any infectious or contagious disease, or dies of such disease, to give immediate notice thereof to the nearest police-station:

(2) at all times when required by any Magistrate or any other person duly authorized by the Magistrate of the District in this behalf, to give him free access to the saráí and allow him to inspect the same or any part thereof:

(3) to thoroughly cleanse the rooms and verandahs, and drains of the saráí, and the wells, tanks, or other sources from which water is obtained for the persons or animals using it, to the satisfaction of, and so often as shall be required by, the Magistrate of the District, or such person as he shall appoint in this behalf:

(4) to remove all noxious vegetation on or near the saráí, and all trees and branches of trees capable of affording to thieves means of entering or leaving the saráí:

(5) to keep the gates, walls, fences, roofs and drains of the saráí in repair:

(6) to provide such number of watchmen as may, in the opinion of the Magistrate of the District, subject to such rules as the [1][Provincial Government] may prescribe in this behalf, be necessary for the safety and protection of persons and animals or vehicles lodging in, halting at or placed in the saráí: and

(7) to exhibit a list of charges for the use of the saráí at such place and in such form and languages as the Magistrate of the District shall from time to time direct.

Power to order reports from keepers of saráís.

8. The keeper of a saráí shall from time to time, if required so to do by an order of the Magistrate of the District served upon him, report, either orally or in writing as may be directed by the Magistrate to such Magistrate or to such person as the Magistrate shall appoint, every person who resorted to such saráí during the preceding day or night.

If written reports are required for any space of time exceeding a single day or night, schedules shall be furnished by the Magistrate of the District to the keeper.

The keeper shall from time to time fill up the said schedules with the information so required, and transmit them to the said Magistrate, in such manner and at such intervals as may from time to time be ordered by him.

Power to shut up, secure, clear and clean deserted saráis.

9. If any saráí by reason of abandonment or of disputed ownership shall remain untenanted, and thereby become a resort of idle and disorderly persons, or become in a filthy or unwholesome state, or be complained of by any two or more of the neighbours as a nuisance, the Magistrate of the District, after due enquiry, may cause notice in writing to be given to the owner or to the person claiming to be the owner, if he be known and resident within the district, and may also cause such notice to be put on some conspicuous part

[1] Subs. by the A. O. for "L. G."

of the sarai, requiring the persons concerned therein, whoever they may be, to secure, enclose, clean or clear the same,

and if such requisition shall not be complied with within eight days, the Magistrate of the District may cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the saráí and shall be recoverable like penalties under this Act or, in case of abandonment or disputed ownership of the saráí, by the sale of any material found therein

10 If a saráí or any part thereof be deemed by the Magistrate of the District to be in a ruinous state, or likely to fall, or in any way dangerous to the persons or animals lodging in or halting at the saráí, he shall give notice in writing to the keeper of the saráí requiring him forthwith to take down, repair or secure (as the case may be) the saráí or such part thereof as the case may require — Taking down or repairing ruinous sarais

If the keeper do not begin to take down *repair or secure the saráí or such* part as aforesaid within three days after such notice and complete such work with due diligence the Magistrate shall cause all or so much of the saráí as he shall think necessary to be taken down, repaired or otherwise secured

All the expenses so incurred by the Magistrate shall be paid by the keeper of the saráí, and shall be recoverable from him as hereinafter mentioned

11. If any such saráí or any part thereof be taken down by virtue of the powers aforesaid the Magistrate of the District may sell the materials thereof, or so much of the same as shall be taken down under the provisions of the last preceding section, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore the over plus (if any) arising from such sale to the owner of such saráí on demand and may recover the deficiency (if any) as if the amount thereof were a penalty under this Act — Sale of materials of ruinous saráís

12 Whoever, being the keeper of any saráí, suffers the same to be in a filthy and unwholesome state or overgrown with vegetation or after the expiration of two days from the time of his receiving notice in writing from the Magistrate of the District to cleanse or clear the same, or after he shall have been convicted of suffering the same to be in such a state or so over grown as aforesaid shall allow the same to continue in such state, or so over grown shall be liable to the penalties provided in section 14 of this Act — Penalty for permitting saráís to be filthy or overgrown

Provided that the Magistrate of the District may, in lieu of enforcing such daily penalty, enter on and cleanse or clear the said saráí, and the expense incurred by the Magistrate in respect thereof shall be paid to him by the keeper, and shall be recoverable as by this Act provided in the case of penalties — Proviso

13 The [1][Provincial Government] may from time to time make regulations for the better attainment of the objects of this Act provided that such rules be not inconsistent with this Act or with any other law for the time being in force and may from time to time repeal alter and add to the same — Power for Provincial Government to make regulations

All regulations made under this Act and all repeals thereof and alterations and additions thereto shall be published in the [2][Official Gazette]

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[1] Subs by the A O for L G

[2] Subs by the A O for local official Gazette

Penalty for infringing Act or regulations.

14. If the keeper of a sarái offend against any of the provisions of this Act or any of the regulations made in pursuance of this Act, he shall for every such offence be liable on conviction before any Magistrate to a penalty not exceeding twenty rupees, and to a further penalty not exceeding one rupee a day for every day during which the offence continues:

Provided always that this Act shall not exempt any person from any penalty or other liability to which he may be subject, irrespective of this Act.

All penalties imposed under this Act may be recovered in the same manner as fines may be recovered under [1]section 61 of the Code of Criminal Procedure. XXV 1861

Conviction for third offence to disqualify persons from keeping saráís.

15. Where a keeper of a sarái is convicted of a third offence under this Act, he shall not afterwards act as keeper of a sarái without the license in writing of the Magistrate of the District, who may either withhold such license or grant the same on such terms and conditions as he may think fit.

Nothing in Act to apply to certain saráís.

16. No part of this Act, except section 8, shall apply to any sarái which may be under the direct management of the [2][Provincial Government] or of any Municipal Committee.

Extent of Act.

17. This Act shall in the first instance extend only to the [3]territories under the government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William in Bengal.

Power to Provincial Government to extend this Act.

But it shall be lawful for the [2][Provincial Government], by notification in the [4][Official Gazette], to [5]extend this Act, *mutatis mutandis*, to any other part of [6][British India], except the towns of Calcutta, Madras and Bombay [7]* * *.

Short title.

18. This Act may be called the Saráís Act, 1867.

SCHEDULE.

FORM OF NOTICE.

Take notice that on the day of 1867, an Act called the Saráís Act, 1867, was passed, and that, before the day of 18 , you, being keeper of a sarái [*or* purao] within [*here state the district over which the jurisdiction of the Magistrate giving the notice extends*],

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[1] *See* now sections 386, 387 and 389 of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

[2] Subs. by the A. O. for "L. G.".

[3] Now that part of the U. P. known as Agra.

[4] Subs. by the A. O. for "local Gazette".

[5] It has been extended to Oudh. *See* Notification No. 591, dated 25th July, 1883, in North-Western Provinces and Oudh Gazette, 1883, Pt. I, p. 433.

It has also been extended to the Punjab, *see* Notification No. 4499, dated 13th December, 1879, in Punjab Government Gazette, 1879, Pt. I, p. 727, but its application to that part of the Hazara District, known as Upper Tanawal, which then formed part of the Punjab, is barred by the Hazara (Upper Tanawal) Regulation, 1900 (2 of 1900).

[6] Subs. by the A. O. for "the territories which are or may be vested in Her Majesty or Her Successors by the Statute 21 & 22 Vict., cap. 106 (*an Act for the better Government of India*)".

[7] The words "and the Settlement of Prince of Wales' Island, Singapore and Malacca" rep. by the Amending Act, 1891 (12 of 1891).

must have your sarái [*or* purao] registered, and that the register is to be kept at [*here state where the register is to be kept*] and that if you do not have your sarái [*or* purao] so registered, you will be liable to a penalty not exceeding twenty rupees and to a further penalty not exceeding one rupee a day for every day during which the offence continues and that on your applying to [*here give the name and address of the person to keep the register*] he will register your sarai [*or* purao] free of all charge to you

Dated the day of 18

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[1][THE PUNJAB MURDEROUS OUTRAGES ACT, 1867]

CONTENTS

PREAMBLE

SECTIONS

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[1] Short title given by the Amending Act 1903 (1 of 1903) ... — 1867, ... 16th ... h, pp 233 and 241

The Act was rep in the N W F P by the Frontier Murderous Outrages Regulation, 1901 (4 of 1901)

ACT NO. XXIII OF 1867.

[*18th March, 1867.*]

An Act for the suppression of murderous outrages in certain districts of the Punjab.

Preamble.

WHEREAS in certain districts of the Punjab fanatics have frequently murdered or attempted to murder servants of the Queen and other persons: and whereas the general law of the country is not adequate to suppress such offences; it is hereby enacted as follows:—

Power to extend Act to any part of the Punjab.

1. It shall be lawful for the [1][Provincial Government] of the Punjab, [2] * * * * by a proclamation published in the Official Gazette, from time to time to declare any part or parts of the territories under [3][its] government to be subject to the operation of all or any of the provisions of this Act,[4] and also, by such proclamation [5] * * * as aforesaid, from time to time to withdraw from the operation of such provisions any part or parts of the said territories which [6][it] may previously have declared to be subject thereto, and in like manner, as occasion shall require, to subject the same part or parts again to the operation of the same provisions or of any of them.

Punishment of fanatics murdering or attempting to murder.

2. Any fanatic who shall murder or who shall, within the meaning of the Indian Penal Code, section 307, attempt to murder any servant of the Queen or other person, shall, on conviction thereof, be punished either with death or with transportation for life, and all his property shall be forfeited to Government. XL

3. [*Offences under the Act to be offences within meaning of Penal Code.*] *Rep. by the Repealing Act, 1874 (XVI of 1874), s. 1 and Sch., Pt. I.*

Forfeiture of property of fanatics killed in committing outrages punishable under Act.

4. Whenever any fanatic shall be killed in the act of committing any such offence, as aforesaid, or, being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the [7][Sessions Judge or Commissioner] who, under the provisions hereinafter contained, would have had cognizance of the offence if the offender could have been brought to trial, to proceed to hold an inquest into the circumstances of the death of the offender, and on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid to adjudge that the whole of his property shall be forfeited to Government and to dispose of his body as such [7][Sessions Judge or Commissioner] shall think fit.

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[1] Subs. by the A. O. for "Lieutenant-Governor".
[2] The words "with the previous consent of the G. G. of India in C." rep. by the A. O.
[3] Subs. by the A. O. for "his".
[4] For notification applying the Act to certain tracts adjoining the Dera Ghazi Khan District, *see* Punjab Local R. and O.
[5] The words "and with such consent" rep. by the A. O.
[6] Subs. by the A. O. for "he".
[7] Subs. for "Commissioner" by the Punjab Murderous Outrages (Amendment) Act, 1877 (9 of 1877), s. 2.

Trial before Sessions Judge or Commissioner

5 Subject to the provision contained in section 14 of this Act any offence triable under this Act shall be tried by the [1][Sessions Judge or Commissioner] of the division in which it has been committed, and in respect of all such offences the [1][Sessions Judge or Commissioner] shall follow the procedure prescribed for a Magistrate by section 149 Chapter XVII, and the provisions applicable to warrant cases of the Code of Criminal Procedure[2]

Provided that if he shall be of opinion that any witness or evidence i offered for the purpose of vexation or delay, or of defeating the ends of justice he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness or evidence is material and if the [1][Sessions Judge or Commissioner] be not so satisfied he shall not be bound to summon the witness or examine the evidence so offered

Trial to be with aid of assessors

6 Trials under this Act before the [1][Sessions Judge or Commissioner] shall be conducted with the aid of two or more assessors as members of the Court

The [1][Sessions Judge or Commissioner] may appoint such persons other than persons specified in section 405 of the Code of Criminal Procedure[2] at such time and in such manner as he may think fit to serve as assessors and no persons shall be exempt within the meaning of section 406 of the same Code from serving as such assessors

The provisions of the Code of Criminal Procedure[2] shall save as aforesaid apply to assessors appointed under this section

What the judgment is to specify

7. When any trial under this Act is concluded if the accused person be convicted it shall be sufficient if the Court in passing judgment and in recording the finding and sentence shall specify the offence of which he is convicted and the Court shall immediately issue a warrant to the officer in charge of the jail in which the prisoner is confined to cause the sentence to be carried into execution and such sentence shall be carried into execution accordingly

No sentence of death passed under this Act shall require confirmation by any Court

Disposal of bodies of criminals

8 When any person shall be sentenced to death under this Act his body shall be disposed of as the [1][Sessions Judge or Commissioner] by whom he was so sentenced shall direct

Proceedings to be reported to Provincial Government.

9 The proceedings in every trial held under this Act shall be reported to the [3][Provincial Government] without unnecessary delay by the officer before whom such trial shall have been held

No appeal from orders or sentences under Act

10 Notwithstanding anything contained in the Code of Criminal Procedure[2] or [4][in any other enactment for the time being in force] no appeal shall lie from any order or sentence under this Act

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[1] Subs for Commissioner by the Punjab Murderous Outrages (Amendment) Act 187 (9 of 187) s. 2

[2] *See now* the Code of Criminal Procedure, 1898 (5 of 1898)

[3] Subs. by the A O for Lieutenant Governor

[4] Subs. for the Punjab Chief Court Act 1866 by the Amending Act 1891 (12 of 1891) s 2 (2) Sch. II Pt I

ACT No. XXIII OF 1867.

[18th March, 1867.

An Act for the suppression of murderous outrages in certain distri[illegible] of the Punjab.

Preamble.

WHEREAS in certain districts of the Punjab fanatics have freque[illegible] murdered or attempted to murder servants of the Queen and other pers[illegible] and whereas the general law of the country is not adequate to suppres[illegible] offences; it is hereby enacted as follows:—

Power to extend Act to any part of the Punjab.

1. It shall be lawful for the [1][Provincial Government] of the [illegible] [2] * * * * by a proclamation published in the Official [illegible] from time to time to declare any part or parts of the territories u[illegible] government to be subject to the operation of all or any of the pr[illegible] this Act,[4] and also, by such proclamation [5] * * * as afor[illegible] time to time to withdraw from the operation of such provisions [illegible] parts of the said territories which [6][it] may previously have de[illegible] subject thereto, and in like manner, as occasion shall require, [illegible] same part or parts again to the operation of the same provisio[illegible] them.

Punishment of fanatics murdering or attempting to murder.

2. Any fanatic who shall murder or who shall, within th[illegible] Indian Penal Code, section 307, attempt to murder any s[illegible] or other person, shall, on conviction thereof, be punished [illegible] with transportation for life, and all his property shall b[illegible] ernment.

3. [*Offences under the Act to be offences within* [illegible] *Rep. by the Repealing Act, 1874 (XVI of 1874), s. 1* [illegible]

Forfeiture of property of fanatics killed in committing outrages punishable under Act.

4. Whenever any fanatic shall be killed in the [illegible] offence, as aforesaid, or, being wounded and tak[illegible] mitting any such offence as aforesaid, shall a[illegible] shall be competent to the [7][Sessions Judge o[illegible] provisions hereinaft[illegible] contained, would h[illegible] if the offender could h[illegible] been brought [illegible] into the circumstances o[illegible] death o[illegible] been killed as aforesaid, [illegible] of hi[illegible] said to adjudge that the wh[illegible] ment and to dispose of his b[illegible] shall think fit.

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[1] Subs. by the A. O. for "Lieutenant-G[illegible]

[2] The words "with the previous consent [illegible]

[3] Subs. by the A. O. for "his".

[4] For notification applying the Act to certain [illegible] trict, *see* Punjab Local R. and O.

[5] The words "and with such consent," rep. by th[illegible]

[6] Subs. by the A. O. for "he".

[7] Subs. for "Commissioner" [illegible] 1877 (9 of 1877), s. 2.

[1][THE PRESS AND REGISTRATION OF BOOKS ACT, 1867.]

CONTENTS

[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897)

ACT NO. XXV OF 1867.[1]

[*22nd March, 1867.*]

An Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books.

Preamble. WHEREAS it is expedient to provide for the regulation of printing-presses

[1]For Statement of Objects and Reasons, *see* Gazette of India, 1867, p. 191 ; and for Proceedings in Council, *see ibid*, Supplement, pp. 72, 156 and 299.

This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3, to be in force in the whole of British India, except the Scheduled Districts.

It has been applied to the Santhál Parganas by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3 ; to the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. ; and to the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

It has been applied, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to the following Scheduled Districts, namely :—

the Province of Sind, *see* Gazette of India, 1880, Pt. I, p. 672 ;

(*Part I —Preliminary*)

and of periodicals containing news, for the preservation of [1]* copies of every book printed or lithographed in British India, and for the registration of such books, It is hereby enacted as follows —

PART I

PRELIMINARY

1. In this Act, unless there shall be something repugnant in the subject or context,— Interpretation-clause.

"book" includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed 'Book.'

[2]* * * * * *

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the Territory of Peint, *see* Gazette of India, 1887, Pt I, p 144 [Peint is now no longer a Scheduled District, and all the enactments in force in the Nasik District of the Bombay Presidency, among them Act 25 of 1867, are now in force in this territory, *see* the Peint Laws Act, 1894 (Bom Act 2 of 1894)],
the Island of Perim, *see* Gazette of India, 1887, Pt I, p 5,
that

the Districts of Kumáon and Garhwal, *see* Gazette of India, 1876, Pt I, p 605,
the scheduled portion of the Mirzapur District, *see* Gazette of India, 1879, Pt I, p 383,
Pargana Jaunsar Bawar in the Dehra Dun District, *see* Gazette of India, 1879, Pt I, p 382,
the Districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan, *see* Gazette of India, 1886, Pt I, p 48 [Portions of the districts of Hazara, Bannu, Dera Ismail Khan and Dera Ghazi Khan and the Districts of Peshawar and Kohat now form part of the N W F P, *see* Gazette of India, 1901, Pt I, p 857, and *ibid*, 1902 Pt I p 575 but its application to that part of the Hazara District known as Upper Tanawal is barred by the Hazara (Upper Tanawal) Regulation, 1900 (2 of 1900)],
the Districts of Kamrup, Nowgong Darrang Sibsagar, Lakhimpur, Goalpara (excluding the Eastern Duars) and Cachar (excluding the North Cachar Hills), *see* Gazette of India, 1878, Pt I, p 533,
the Garo Hills, the Khasi and Jaintia Hills, the Naga Hills, the North Cachar Hills in the Cachar District and the Eastern Duárs in the Goalpara District, *see* Gazette of India, 1897, Pt I p 299,
the District of Sylhet, *see* Gazette of India, 1879, Pt I, p 631

It has been declared by notification under s 3 (*b*) of the same Act, 1874 (14 of 1874) not to be in force in the Scheduled District of Lahaul in the Punjab, *see* Gazette of India, 1886, Pt I, p 301

It has been extended, by notification under s 5 of the same Act to the Tarai District of the Province of Agra, *see* Gazette of India 1876, Pt I, p 506, to the District of Coorg, *see ibid*, 1918 Pt II, p 1730, to Br Baluchistan *see ibid*, 1935, Pt II A, p 11

[1] The word 'three in the preamble was rep by the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s 1

[2] Definition of 'British India" rep by the A O, *see* now the definition in s 3 (7) of the General Clauses Act, 1897 (10 of 1897)

Editor.

[1][" editor " means the person who controls the selection of the matter that is published in a newspaper :]

" Magistrate."

" Magistrate " means any person exercising the full powers of a Magistrate[2], and includes a [3]Magistrate of Police [4]* * * *:

" Newspaper."

[1][" newspaper " means any printed periodical work containing public news or comments on public news :]

[5]* * * * *

2. [*Repeal of Act XI of 1835.*] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

PART II.

Of Printing-presses and Newspapers.

Particulars to be printed on books and papers.

3. Every book or paper printed within British India shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) [6][the name] of the publisher and the place of publication.

Keeper of printing press to make declaration.

4. No person shall, within British India, keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the Magistrate within whose local jurisdiction such press may be :

" I, *A. B.*, declare that I have a press for printing at————."

And this last blank shall be filled up with a true and precise description of the place where such press may be situate.

Rules as to publication of printed periodicals containing public news.

5. No [7][newspaper] shall be published in British India, except in conformity with the rules hereinafter laid down :

[8][(1) Every copy of every such newspaper shall contain the name of the person who is the editor thereof printed clearly on such copy as the name of the editor of that newspaper :]

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[1] Ins. by s. 3 and First Schedule of the Press Law Repeal and Amendment Act, 1922 (14 of 1922).

[2] Now Magistrate of the first class, *see* the Code of Criminal Procedure, 1898 (Act 5 of 1898), s. 3.

[3] Now Presidency Magistrate, *see* the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s. 3, and the Code of Criminal Procedure, 1898 (Act 5 of 1898).

[4] The words " and a Justice of the Peace " rep. by the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s. 2.

[5] Paragraphs relating to " Number " and " Gender " rep. by the Repealing and Amending Act, 1914 (10 of 1914) and the definition of " L. G. " rep. by the A. O.

[6] Ins. by the Amending Act, 1891 (12 of 1891).

[7] Subs. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch. I for " printed periodical work, containing public news or comments on public news ".

[8] Ins. by *ibid.*

(Part II —Of Printing presses and Newspapers)

[1](2) The printer and the publisher of every such [2][newspaper] shall appear [3][in person or by agent authorised in this behalf in accordance with rules made under section 20, before a District, Presidency or Sub divisional Magistrate within whose local jurisdiction such newspaper shall be printed or published, or such printer or publisher resides], and shall make and subscribe, in dupli cate, the following declaration

"I, *A B*, declare that I am the printer [*or* publisher, *or* printer and publisher] of the [2][newspaper] entitled————and printed [*or* published, *or* printed and published, *as the case may be*] at——"

And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is con ducted

[1](3) As often as the place of printing or publication is changed, a new declaration shall be necessary

[1](4) As often as the printer or the publisher who shall have made such declaration as is aforesaid shall leave British India, a new declaration from a printer or publisher resident within the said territories shall be necessary

[4][Provided that no person who has not attained majority in accordance
875 with the provisions of the Indian Majority Act, 1875, or of the law to which he is subject in respect of the attainment of majority, shall be permitted to make the declaration prescribed by this section nor shall any such person edit a newspaper]

Authentication of declaration.

6 Each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made

Deposit

One of the said originals shall be deposited among the records of the office of the Magistrate, and the other shall be deposited among the records of the High Court of Judicature, or [5][other principal Civil Court of original jurisdic tion for the place where] the said declaration shall have been made

Inspection and supply of copies

The officer in charge of each original shall allow any person to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration attested by the seal of the Court which has the custody of the original, on payment of a fee of two rupees

Office copy of declaration to be *prima facie* evidence

7. In any legal proceeding whatever, as well civil as criminal the pro duction of a copy of such declaration as is aforesaid, attested by the seal of some Court empowered by this Act to have the custody of such declarations [6][or in the case of the editor a copy of the newspaper containing his name printed on it as that of the editor] shall be held (unless the contrary be proved)

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by Press

work shall

be pub hed

[4] Ins by *ibid*

[5] Subs by the Press and Registration of Books Act (1867) Amendment Act 1890 (10 of 1890) s 3 for other Court within the local limits of whose ordinary original civil jurisdiction

[6] Ins by the Press Law Repeal and Amendment Act 1922 (14 of 1922) s 3 and Sch I

to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, [1][or printed on such newspaper, as the case may be], that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every [2][newspaper] whereof the title shall correspond with the title of the [2][newspaper] mentioned in the declaration [1][or the editor of every portion of that issue of the newspaper of which a copy is produced].

New declaration by persons who have signed declaration and subsequently ceased to be printers or publishers.

8. Provided always that any person who may have subscribed any such declaration as is aforesaid, and who may subsequently cease to be the printer or publisher of the [2][newspaper] mentioned in such declaration, may appear before any Magistrate, and make and subscribe in duplicate the following declaration :—

"I, *A. B.*, declare that I have ceased to be the printer [*or* publisher, *or* printer and publisher] of the [2][newspaper] entitled———."

Authentication and filing.

Each original of the latter declaration shall be authenticated by the signature and seal of the Magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration.

Inspection and supply of copies.

The officer in charge of each original of the latter declaration shall allow any person applying to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said latter declaration, attested by the seal of the Court having custody of the original, on payment of a fee of two rupees.

Putting copy in evidence.

In all trials in which a copy, attested as is aforesaid, of the former declaration shall have been put in evidence, it shall be lawful to put in evidence a copy, attested as is aforesaid, of the latter declaration, and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the [2][newspaper] therein mentioned.

Person whose name has been incorrectly published as editor may make a declaration before a Magistrate.

[1][**8A.** If any person, whose name has appeared as editor on a copy of a newspaper, claims that he was not the editor of the issue on which his name has so appeared, he may, within two weeks of his becoming aware that his name has been so published, appear before a District, Presidency or Sub-divisional Magistrate and make a declaration that his name was incorrectly published in that issue as that of the editor thereof, and if the Magistrate after making such inquiry or causing such inquiry to be made as he may consider necessary is satisfied that such declaration is true, he shall certify accordingly, and on that certificate being given the provisions of section 7 shall not apply to that person in respect of that issue of the newspaper.

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[1] Ins. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch. I.
[2] Subs. by *ibid* for "periodical work".

The Magistrate may extend the period allowed by this section in any case where he is satisfied that such person was prevented by sufficient cause from appearing and making the declaration within that period.]

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[1]PART III.

DELIVERY OF BOOKS.

Copies of books printed after commencement of Act to be delivered *gratis* to Government.

9. Printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the [2][Provincial Government] shall, by notification in the Official Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say :—

(*a*) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, one such copy, and

(*b*) if within one calendar year from such day the [2][Provincial Government] shall require the printer to deliver other such copies not exceeding two in number, then within one calendar month after the day on which any such requisition shall be made by the [2][Provincial Government] on the printer, another such copy, or two other such copies, as the [2][Provincial Government] may direct,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed.

The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

Nothing in the former part of this section shall apply to—

(*i*) any second or subsequent edition of a book in which edition no additions or alterations either in the letter press or in the maps, book prints or other engravings belonging to the book have

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[1] Subs. for the original Part III (relating to the delivery to the Local Government of all published books, etc., and to the payment therefor and disposal of the copies) by the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s. 4.

[2] Subs. by the A. O. for "L. G."

been made, and a copy of the first or some preceding edition of which book has been delivered under this Act, or

(*ii*) any [1][newspaper] published in conformity with the rules laid down in section 5 of this Act.

Receipt for copies delivered under section 9.

10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

Disposal of copies delivered under section 9.

11. The copy delivered pursuant to clause (*a*) of the first paragraph of section 9 of this Act shall be disposed of as the [2][Provincial Government] shall from time to time determine. Any copy or copies delivered pursuant to clause (*b*) of the said paragraph shall be transmitted to the British Museum or the Secretary of State for India, or to the British Museum and the said Secretary of State, as the case may be.

Copies of newspaper printed in British India to be delivered *gratis* to Government.

[3][**11A.** The printer of every newspaper in British India shall deliver at such place and to such officer as the [2][Provincial Government] may, by notification in the [4][Official Gazette], direct, and free of expense to the Government, two copies of each issue of such newspaper as soon as it is published.]

PART IV.

PENALTIES.

Penalty for *printing* contrary to rule in section 3.

12. Whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in section 3 of this Act shall, on conviction before a Magistrate, be punished by fine not exceeding [5][two thousand] rupees, or by simple imprisonment for a term not exceeding [6][six months], or by both.

Penalty for keeping press without making declaration required by section 4.

13. Whoever shall keep in his possession any such press as aforesaid, without making such a declaration as is required by section 4 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding [5][two thousand] rupees, or by simple imprisonment for a term not exceeding [6][six months], or by both.

Punishment for making false statement.

14. Any person who shall, in making any declaration under the authority of this Act, make a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction before a Magistrate, be punished by fine not exceeding [5][two thousand] rupees, and imprisonment for a term not exceeding [6][six months].

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[1] Subs. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch. I, for "periodical work".

[2] Subs. by the A. O. for "L. G."

[3] Ins. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch. I.

[4] Subs. by the A. O. for "local official Gazette."

[5] Subs. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch. I for "five thousand".

[6] Subs. by *ibid* for "two years".

(Part IV.—Penalties.)

Penalty for printing or publishing periodicals without conforming to rules

15. Whoever shall [1][edit] print or publish any [2][newspaper] without conforming to the rules hereinbefore laid down, or whoever shall [1][edit] print or publish, or shall cause to be [1][edited] printed or published, any [3][newspaper], knowing that the said rules have not been observed with respect to [4][that newspaper], shall, on conviction before a Magistrate, be punished with fine not exceeding [5][two thousand] rupees, or imprisonment for a term not exceeding [6][six months], or both

Penalty for not delivering books or not supplying printer with maps

[7][**16.** If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorized by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered

If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied]

Penalty for failure to supply copies of newspapers *gratis* to Government

[1][**16A.** If any printer of any newspaper published in British India neglects to deliver copies of the same in compliance with section 11A, he shall, on the complaint of the officer to whom copies should have been delivered or of any person authorised by that officer in this behalf, be punishable, on conviction by a Magistrate having jurisdiction in the place where the newspaper was printed, with fine which may extend to fifty rupees for every default]

Recovery of forfeitures and disposal

[8][**17.** Any sum forfeited to the Government under [9][section 16] may be recovered, under the warrant of the Magistrate determining the sum, or of his

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[1] Ins by the Press Law Repeal and Amendment Act, 1922 (14 of 1922) s 3 and Sch I
[2] Subs by *ibid* for "such periodical work as is hereinbefore described".
[3] Subs by *ibid* for "such periodical work".
[4] Subs by *ibid* for "that work"

[illegible] ooks Act (1867) Amendment Act, 1890 (10 of

[illegible] Act, 1923 (11 of 1923), s 2 and Sch I,
"the last foregoing section".

thereof and of fines.

successor in office, in the manner authorised by the [1]Code of Criminal Procedure for the time being in force, and within the period prescribed by the Indian Penal Code, for the levy of a fine. XLV

[2]* * * * * * * * * * * * *

PART V.

REGISTRATION OF BOOKS.

Registration of memoranda of books.

18. There shall be kept at such office, and by such officer as the [3][Provincial Government] shall appoint in this behalf, a book to be called a Catalogue of Books printed in British India, wherein shall be registered a memorandum of every book which shall have been delivered [4][pursuant to clause (*a*) of the first paragraph of section 9] of this Act. Such memorandum shall (so far as may be practicable) contain the following particulars (that is to say) :—

(1) the title of the book and the contents of the title-page, with a translation into English of such title and contents, when the same are not in the English language :

(2) the language in which the book is written :

(3) the name of the author, translator or editor of the book or any part thereof :

(4) the subject :

(5) the place of printing and the place of publication :

(6) the name or firm of the printer and the name or firm of the publisher :

(7) the date of issue from the press or of the publication :

(8) the number of sheets, leaves or pages :

(9) the size :

(10) the first, second or other number of the edition :

(11) the number of copies of which the edition consists :

(12) whether the book is printed or lithographed :

(13) the price at which the book is sold to the public : and

(14) the name and residence of the proprietor of the copyright or of any portion of such copyright.

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[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

[2] The second paragraph which read " All fines or forfeitures under this Part of this Act shall, when recovered, be disposed of as the L. G. shall from time to time direct " rep. by the A. O.

[3] Subs. by the A. O. for " L. G.".

[4] Subs. by the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s. 6, for " pursuant to section 9 ".

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the [1][copy thereof pursuant to clause (*a*) of the first paragraph of section 9] [2]* * * * *

19. The memoranda registered during each quarter in the said Catalogue shall be published in the [3][Official Gazette] as soon as may be after the end of such quarter, and a copy of the memoranda so published shall be sent to the said Secretary of State, and to the [4][Central Government] respectively. Publication of memoranda registered

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PART VI.

Miscellaneous

20. The [5][Provincial Government] shall have power to make such rules as may be necessary or desirable for carrying out the objects of this Act, and from time to time to repeal, alter and add to such rules. Power to make rules

All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the [3][Official Gazette]. Publication

21. [6][The Provincial Government may, by notification in the Official Gazette] exclude any class of books [7][or papers] from the operation of the whole or any part or parts of this Act. Power to exclude any class of books from operation of Act

22. [*Continuance of parts of Act*] *Rep by the Press and Registration of Books Act (1867) Amendment Act, 1890 (X of 1890)*

23. [*Commencement*] *Rep by the Repealing Act, 1870 (XIV of 1870)*

Act No. XXIV of 1868.[8]

[*1st October, 1868*]

An Act to prohibit the practice of inoculation in Kumaon and Garhwal.

Whereas it is expedient to prohibit the practice of inoculation with the Preamble

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endment Act, 1890 (10 of

under that section, was

[4] Subs by *ibid* for the words "G of I." which had been subs for the original words "Secretary to the G of I in the Home Department" by the Repealing and Amending Act, 1914 (10 of 1914), s 2 and Sch I.

Gazette

Proceed-

small-pox in the districts of Kumaon and Garhwal; It is hereby enacted as follows :—

Penalty for inoculating.

1. Whoever produces or attempts to produce in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding three months, or to fine not exceeding two hundred rupees, or to both.

Penalty on inoculated person entering place to which Act extends.

2. If any person having been inoculated with the small-pox in a place to which this Act does not extend shall afterwards enter any place to which this Act extends, before the date[1] of forty days from the date of such inoculation or without a certificate from a qualified medical officer that such person is no longer likely to cause contagion, such person shall be liable, on conviction before a Magistrate, to imprisonment for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

Reward to informer.

3. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half of such fine to the person on whose information the offender has been convicted.

Extent of Act.

4. This Act [2]extends only to the Districts of Kumaon and Garhwal.

THE OUDH ESTATES ACT, 1869.

CONTENTS.

PREAMBLE.

I.—Preliminary.

SECTIONS.

II.—Rights and Liabilities of Taluqdars and Grantees.

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[1] *Sic. Read* " expiry ".
[2] The Act has been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874), to the Tarai Parganas.

III.—Lists of Taluqdars and Grantees

ACT No. I OF 1869.[1]

[12th January, 1869.]

An Act to define the rights of Taluqdars and others in certain estates in Oudh, and to regulate the succession thereto.

Preamble.

WHEREAS, after the re-occupation of Oudh by the British Government in the year 1858, the proprietary right in divers estates in that province was, under certain conditions, conferred by the British Government upon certain taluqdars and others; and whereas doubts may arise as to the nature of the rights of the said taluqdars and others in such estates, and as to the course of succession thereto; and whereas it is expedient to prevent such doubts, and to regulate such course, and to provide for such other matters connected therewith as are hereinafter mentioned; It is hereby enacted as follows:—

I.—Preliminary.

Short title. Extent of Act.

1. This Act may be cited as the Oudh Estates Act, 1869, and shall extend only to the estates hereinafter referred to.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context,—

Transfer.

[2]["transfer," with its grammatical variations and cognate expressions, means to make an alienation *inter vivos* whether before or after the commencement of this Act];

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1867, p. 1134; for Proceedings in Council, *see ibid*, Supplement, pp. 614 and 652; and *ibid*, 1869, Supplement, p. 60.

[2] Subs. by the Oudh Estates (Amendment) Act, 1910 (U. P. 3 of 1910), s. 2 (*1*), for the original definitions: as to the extent to which the new definitions operate retrospectively, *see* s. 21 of *ibid*.

(*I.—Preliminary.*)

"will" means the legal declaration of the intentions of the testator with respect to his property affected by this Act, which he desires to be carried into effect after his death; Will.

"codicil" means an instrument made in relation to a will, and explaining, altering or adding to its dispositions; it is considered as forming an additional part of the will; Codicil.

[1]["sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark"[2] with its grammatical variations and cognate expressions]; Sign.

[3]["attest," with its grammatical variations, when used with reference to any instrument other than a will, means to sign such instrument as a witness in the presence of the executant after having seen the executant sign the same or after having received from the executant a personal acknowledgment of his signature to the same; Attest.

provided that, where attestation by more than one witness is required, it shall not be necessary that more than one of such witnesses should be present at the same time;

provided also that no particular form of attestation shall be required;]

[4]["registered" means— Registered.

(*a*) in the case of a will, registered according to the law for the time being in force relating to the registration of assurances, or deposited with a Registrar according to the law for the time being in force relating to the deposit of wills; and

(*b*) in the case of any other instrument, registered according to the law for the time being in force relating to the registration of assurances;]

"minor" means any person who shall not have completed the age of eighteen years; and "minority" means the status of such person; Minor.

[1]["taluqdar" means any person whose name is entered in the first of the lists mentioned in section 8; Taluqdar.

[1]["grantee" means any person whose name is entered in the fifth or sixth of the lists mentioned in section 8]; Grantee.

[1]["estate" means— Estate.

(*a*) the taluqa or immoveable property acquired or held by a taluqdar or grantee in the manner mentioned in section 3, section 4 or section 5; and

(*b*) the other immoveable property situated in the United Provinces, in which a taluqdar or grantee or his heir or legatee or a

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[1] Subs. by the Oudh Estates (Amendment) Act, *1910* (U. P. *3 of* 1910), s. 2 (*1*), for the original definitions; as to the extent to which the new definitions operate retrospectively, *see* s. 21 of *ibid*.

[2] Cf. s. 3 (52) of the General Clauses Act, 1897 (10 of 1897).

[3] [illegible]

[4] [illegible] of Act 10 of 1885, subject to the saving in s. 2 of [illegible] the definition in s. 3 (*45*) of the General Clauses [illegible]

transferee referred to in section 14 has a separate, permanent, heritable and transferable right, and in respect of which he has made a declaration in accordance with the provisions of section 32A of this Act;]

Heir.

[1]["heir" means a person who has inherited or inherits otherwise than as a widow or a mother, an estate or portion of an estate whether before or after the commencement of this Act];

Legatee.

[1]["legatee" means a person to whom there has been or is bequeathed an estate or portion of an estate whether before or after the commencement of this Act;

Explanation.—The words "heir" and "legatee" used with reference to a taluqdar or grantee or a person whose name has been inserted in the list referred to in section 31A, sub-section (*3*), are not restricted to the immediate heirs and legatees of such taluqdar, grantee or person.]

Words expressing relationship.

Words expressing relationship denote only legitimate relatives, but apply to children in the womb who are afterwards born alive.

II.—Rights and Liabilities of Taluqdars and Grantees.

Taluqdars to have heritable and transferable rights in their estates,

3. Every taluqdar with whom a summary settlement of the Government revenue was made between the 1st day of April, 1858, and the 10th day of October, 1859, or to whom, before the passing of this Act and subsequently to the 1st day of April, 1858, a taluqdari sanad has been granted,

shall be deemed to have thereby acquired a permanent, heritable and transferable right in the estate comprising the villages and lands named in the list attached to the agreement or kabuliyat executed by such taluqdar when such settlement was made,

or which may have been or may be decreed to him by the Court of an officer engaged in making the first regular settlement of the Province of Oudh, such decree not having been appealed from within the time limited for appealing against it, or, if appealed from, having been affirmed,

subject to certain conditions.

subject to all the conditions affecting the taluqdar contained in the orders passed by the Governor General of India on the 10th and 19th days of October, 1859, and re-published in the First Schedule hereto annexed, and subject also to all the conditions [2][other than those relating to succession] contained in the sanad under which the estate is held.

[2][*Explanation.*—Notwithstanding anything contained in the Crown Grants Act, 1895, the conditions of the sanad relating to succession, in so far as they are inconsistent with the provisions of this Act, shall not apply to the estate.] XV o

Rights and liabilities of persons named

4. Every person whose lands the proclamation issued in Oudh in the month of March, 1858, by order of the Governor General of India specially exempted from confiscation, and whose names are contained in the Second

[1] Subs. by the Oudh Estates (Amendment) Act, 1910 (U. P. 3 of 1910), s. 2 (*1*), for the original definitions. As to the extent to which the new definitions operate retrospectively, *see ibid*, s. 21.

[2] Ins. by *ibid*, s. 3. As to the extent to which the amendment operates retrospectively, *see ibid*, s. 21.

Schedule hereto annexed, shall be deemed to possess, in the lands for which such person executed a kabuliyat between the 1st day of April, 1858, and the 1st day of April, 1860, the same right and title which he would have possessed thereto if he had acquired the same in the manner mentioned in section 3, and he shall be deemed to hold the same subject to all the conditions affecting taluqdars which are referred to in the said section, and to be a taluqdar for all the purposes of this Act. in second schedule.

5. Every grantee shall possess the same rights and be subject to the same conditions in respect of the estate comprised in his grant as a taluqdar possesses and is subject to, under section 3, in respect of his estate. Grantees' rights and liabilities.

6. Nothing in sections 3, 4 and 5, or in the said orders, or in any sanad shall be deemed to bar a suit for redemption— Saving of certain redemption-suits.

(a) where the instrument of mortgage was executed on or after the 13th day of February, 1844, and fixed no term within which the property comprised therein might be redeemed, or

(b) where the instrument of mortgage fixed a term within which the property comprised therein might be redeemed and such term did not expire before the 13th day of February, 1856.

7. If a taluqdar or grantee, or any heir or legatee of a taluqdar or grantee, desire that any elephants, jewels, arms or other articles of moveable property belonging to him shall devolve along with his estate, he shall take an inventory of such articles. Such inventory shall be signed by him and deposited in the office of the Deputy Commissioner of the district wherein such estate or the greater part thereof is situate, and thereupon such of the said articles as shall not have been transferred shall (so far as may be possible) be used and enjoyed by the person who, under or by virtue of this Act, is for the time being in actual possession or in receipt of the rents and profits of the said estate or the greater part thereof, otherwise than as mortgagee or lessee. Heirlooms.

III.—Lists of Taluqdars and Grantees.

8. Within six months after the passing of this Act, the [1][Provincial Government] subject to such instructions as [2][it] may receive from the [3][Central Government], shall cause to be prepared six lists, namely:— Preparation of lists of taluqdars and grantees.

first, a list of all persons who are to be considered taluqdars[4] within the meaning of this Act;

second, a list of the taluqdars whose estates, according to the custom of the family on and before the 13th day of February, 1856, ordinarily devolved upon a single heir;

[1] Subs. by the A. O. for "Chief Commissioner of Oudh".
[2] Subs. by the A. O. for "he".
[3] Subs. by the A.O. for "G. G. of India in C."
[4] For lists of taluqdars in Oudh, see U. P. Local R. and O.

third, a list of the taluqdars, not included in the second of such lists, to whom sanads or grants have been or may be given or made by the British Government up to the date fixed for the closing of such lists, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture;

fourth, a list of the taluqdars to whom the provisions of section 23 are applicable;

fifth, a list of the grantees to whom sanads or grants have been or may be given or made by the British Government, up to the date fixed for the closing of such list, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture;

sixth, a list of the grantees to whom the provisions of section 23 are applicable.

Publication of lists.

9. When the lists mentioned in section 8 shall have been approved by the [1][Provincial Government], they shall be published in the [2][Official Gazette]. After such publication the first and second of the said lists shall not, except in the manner provided by section 30 or section 31, as the case may be, be liable to any alteration in respect of any names entered therein.

Supplementary list.

If, at any time after the publication of the said lists, it appears to the [3][Provincial Government] that the name of any person has been wrongly omitted from or wrongly entered in any of the said lists, the [4][Provincial Government] may order the name to be inserted in the proper list, and such name shall be published in the [5][Official Gazette] in a supplementary list, and such person shall be treated in all respects as if his name had been from the first inserted in the proper list.

None but persons med in to be uqdars or tees.

10. No persons shall be considered taluqdars or grantees within the meaning of this Act, other than the persons named in such original or supplementary lists as aforesaid. The Courts shall take judicial notice of the said lists and shall regard them as conclusive evidence that the persons named therein are such taluqdars or grantees.

IV.—Powers of Taluqdars and Grantees to transfer and bequeath.

Taluqdars and grantees

11. Subject to the provisions of this Act, and to all the conditions [6][other than those relating to succession] under which the estate was

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[1] Subs. by the A. O. for "Chief Commissioner of Oudh".
[2] Subs. by the A. O. for "Gazette of India".
[3] Subs. by the A. O. for the words "L. G." which had been subs. by the Devolution Act, 1920 (38 of 1920) for "G. G. of India in C."
[4] Subs. by the A. O. for the words "L. G." which had been subs. for "said G. G. in C. by the Devolution Act, 1920 (38 of 1920).
[5] Subs. by the A. O. for the words "local official Gazette" which had been subs. for "Gazette of India" by *ibid*.
[6] Ins. by s. 4 of the Oudh Estates (Amendment) Act, 1910 (U. P. 3 of 1910): as to the extent to which this amendment operates retrospectively, *see* s. 21 of *ibid*.

conferred by the British Government, every taluqdar and grantee, and every heir and legatee of a taluqdar and grantee, of sound mind and not a minor, shall be competent to transfer the whole or any portion of his estate, or of his right and interest therein, during his lifetime, by sale, exchange, mortgage, lease or gift, and to bequeath by his will to any person the whole or any portion of such estate, right and interest. may t and b

A married woman may make a bequest under this Act of any property which she could alienate by her own act during her life.

Persons who are deaf or dumb or blind are not thereby incapacitated for making a transfer or bequest under this Act, if they are able to know what they do by it.

One who is ordinarily insane may make a transfer or bequest under this Act during an interval in which he is of sound mind.

No person can make a transfer or bequest under this Act while he is in such a state of mind, whether from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

A transfer and a will, or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the transferor or testator, is void.

12. No transfer or bequest under this Act shall be valid whereby the vesting of the thing transferred or bequeathed may be delayed beyond the lifetime of one or more persons living at the decease of the transferee or testator and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing transferred or bequeathed is to belong. Rule a Perpet

[1][**13.** (*1*) No taluqdar or grantee, and no heir or legatee of a taluqdar or grantee, and no transferee referred to in section 14, and no heir or legatee of such transferee, shall have power to give his estate, or any portion thereof, or any interest therein— Proced relatin transfe by gift

(*a*) to any person who would have succeeded to such estate, portion or interest under the provisions of this Act applicable to such estate, had the donor died intestate as to his estate at the time when the gift took effect,

except by a registered instrument, signed by the donor and attested by two or more witnesses ;

(*b*) to any person other than a person mentioned in clause (*a*),

except by an instrument signed by the donor and attested by two or more witnesses not less than three months before his death and presented for registration within one month from the date of its execution and registered.

(*2*) No gift made under sub section (*1*) shall be valid unless followed, within six months from the date of execution of the instrument of gift, by delivery

[1] Subs. by the Oudh Estates (Amendment) Act, 1910 (U. P. 3 of 1910), s. 5, for the original s. 13.

by the donor, or his representative in interest, of possession of the property comprised therein.]

Procedure relating to bequests.

[1][**13A.** No taluqdar or grantee, and no heir or legatee of a taluqdar or grantee, and no transferee referred to in section 14, and no heir or legatee of such transferee, shall have power to bequeath his estate, or any portion thereof or any interest therein—

(*1*) (*a*) to a person who would have succeeded to such estate, portion or interest under the provisions of this Act applicable to such estate, had the person so bequeathing died intestate as to his estate, at the time when the bequest took effect,

(*b*) to his daughter,

(*c*) to a son of his daughter, or

(*d*) to a younger son,

except by a will duly executed and attested;

(*2*) to a person who might, in the absence of other heirs, have succeeded to such estate, portion or interest under the provisions of this Act applicable to such estate, had the person so bequeathing died intestate as to his estate, at the time when the bequest took effect,

except by a will duly executed and attested not less than three months before the death of the testator and presented for registration within one month from the date of its execution and registered;

(*3*) to any person other than a person mentioned in clauses (*1*) and (*2*), except by a will duly executed and attested not less than three months before the death of the testator and registered according to the law for the time being in force relating to the registration of assurances, but presented for such registration within one month from the date of its execution.]

V.—Transfers and Bequests.

Result of transfer or bequest of estate to taluqdars or heirs.

[2][**14.** If any taluqdar or grantee, or his heir or legatee, shall heretofore have transferred or bequeathed, or if any taluqdar or grantee, or his heir or legatee, shall hereafter transfer or bequeath the whole or any portion of his estate—

(*a*) to another taluqdar or grantee, or his heir or legatee, or

(*b*) to any of the persons mentioned in clauses (*1*) and (*2*) of section 13A,

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[1] Ins. by s. 7 of the Oudh Estates (Amendment) Act, 1910 (U. P. 3 of 1910).

[2] Subs. for the original sections 14 and 15 by ss. 7 and 8, respectively, of *ibid* : as to the extent to which these sections operate retrospectively, [illegible] 1 [illegible]*bid.*

the transferee or legatee and his heirs and legatees, shall have the same rights and powers in regard to the property to which he or they may have become entitled under or by virtue of such transfer or bequest, and shall hold the same subject to the same conditions and to the same rules of succession as the transferor or testator:

Provided that, if the transferee or legatee had or has, at the time when the transfer or bequest took or takes effect, an estate, the succession to which was or is governed by the rules contained in section 22, the transferee or legatee and his heirs and legatees shall hold such property subject to those rules.]

[1][15. If any taluqdar or grantee, or his heir or legatee, shall heretofore have transferred or bequeathed, or if any taluqdar or grantee, or his heir or legatee, shall hereafter transfer or bequeath the whole or any portion of his estate to any person who did not at the time when the transfer or bequest took effect belong to any of the classes specified in section 14, the transfer of and succession to the property so transferred or bequeathed shall be regulated by the rules which would have governed the transfer of and succession to such property if the transferee or legatee had bought the same from a person not being a taluqdar or grantee, heir or legatee.] Result of transfer or bequest to persons out of line of succession.

[1][16. No transfer, otherwise than by gift, of any estate, or of any portion thereof, or of any interest therein, made by a taluqdar or grantee, or by his heir or legatee, or by a transferee mentioned in section 14, or by his heir or legatee, under the provisions of this Act, shall be valid unless made by a registered instrument signed by the transferor and attested by two or more witnesses.] Procedure relating to transfers otherwise than by gift.

17. [*Further requisites to validity of gifts inter vivos.*] *Rep. by the Oudh Estates (Amendment) Act, 1910 (U. P. Act III of 1910), s. 10.*

[1][18. No taluqdar or grantee, and no heir or legatee of a taluqdar or grantee, and no transferee mentioned in section 14, and no heir or legatee of such transferee, shall have power to give his estate, or any portion thereof, or any interest therein, to religious or charitable uses, except by an instrument of gift signed by the donor and attested by two or more witnesses not less than three months before his death and presented for registration within one month from the date of its execution and registered.] Procedure relating to gifts to religious or charitable uses.

VI.—Testamentary Succession.

19. *Sections 49, 50, 51, 54, 55 and 57 to 77 (both inclusive), and sections 82, 83, 85 and 88 to 90 (both inclusive), of the Indian Succession Act (No. X of* Sections of Succession Act applied.

[1] Subs., by ss. 8, 9 and 11, respectively, of the Oudh Estates (Amendment) Act, 1910 (U. P. 3 of 1910), for the original sections.

(*VII.—Intestate Succession.*)

(9) or in default of any such widow or any such adopted son or any such male lineal descendants, then to the mother of the deceased taluqdar or grantee, heir or legatee, for her lifetime only;

Explanation.—In this clause the word "mother" does not include a stepmother; and in the case where the deceased was an adopted son, it means that wife or widow of the father who joined in or made the adoption, or if the adoption was made by the father alone and there are at the time of the death of the deceased more widows than one, it means the one who was first married and, on her death, the other surviving widows in the order of their respective marriages in succession;

(10) or in default of or on the death of such mother, then to the nearest male agnate according to the rule of lineal primogeniture, subject as aforesaid;

(11) or in default of any such agnate, then to such person as would have been entitled to succeed to the estate under the ordinary law to which persons of the religion and tribe of such taluqdar or grantee, heir or legatee, are subject;

provided that, when there are more persons than one so entitled, the estate shall descend to a single person according to the following rules, that is to say:—

(*i*) where among such persons some are connected by blood relationship and some by reason of marriage, the blood relations shall exclude the relations by marriage;

(*ii*) where among such persons some are related by the whole blood and some by the half blood, those related by the whole blood shall exclude those related by the half blood;

(*iii*) where, subject to the provisions of rules (*i*) and (*ii*), among such persons some are related through males only and some through females, the persons related through males only shall exclude the others; and amongst the others those shall be preferred in whose relationship the steps from the deceased proceed furthest through males;

(*iv*) where among such persons some stand in a nearer and some in a more remote relationship to the deceased, but both are equally qualified under the three preceding rules, those in the nearer degree shall exclude those in the more remote;

(*v*) where such persons stand in equal degree of relationship to the deceased and are equally qualified under the four preceding rules, the estate shall descend to the eldest male in the senior line, but if there be no male

heir in that line, then to the eldest male in the next senior line in which there is a male heir; and if there be no male heir in any line, then to the eldest female in the senior line.

Nothing contained in the former part of this section shall be construed to limit the power of alienation conferred by section 11.]

23. Except in the cases provided for by section 22, the succession to all property left by taluqdars and grantees, and their heirs and legatees, dying intestate, shall be regulated by the ordinary law to which members of the intestate's tribe and religion are subject. Gene of su to in taluq and g

VIII.—Maintenance.

24. When any taluqdar or grantee, or his heir or legatee, dies leaving him surviving such relatives as are hereinafter mentioned, the person for the time being in the possession of his estate or the rents and profits thereof shall be liable to pay to each of such relatives during his or her life, or f such other period as is hereinafter mentioned, by twelve equal month ments, an annuity in accordance with the custom of the countr ing such amount as is hereinafter mentioned. Provided was at the date of the death of the deceased living t vided also that such relative is and continues to means of maintenance. Maint of rel

If any part of such estate sh the deceased, the person the rents and prof the said

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(g) where such revenue is less than 7,000 rupees—a sum not exceeding 180 rupees.

Junior widows. In the case of a junior widow of a deceased, the maximum amount of the annuity shall be one-half of the maximum amount to which a senior widow of the deceased would be entitled under the former part of this section.

Brothers and minor sons. **26.** In the case of brothers and minor sons of the deceased, the maximum amount of the annuity shall be a sum not more than 1,200 rupees.

Nephews. In the case of nephews of the deceased, being fatherless minors, the maximum amount of the annuity shall be a sum not more than 600 rupees.

Unmarried daughters, widows of sons and brothers and inferior widows. **27.** In the case of unmarried daughters of the deceased, widows of his sons and brothers, and his widows not of his *ahl-i-bradari*, the maximum amount of the annuity shall be a sum not more than 360 rupees.

Continuance of annuities. **28.** Subject to the provisions hereinbefore contained, the said annuities shall continue—

(a) in the case of a minor son or a minor nephew, till he ceases to be a minor;

(b) in the case of a daughter or widow, till she voluntarily leaves the household of the heir or legatee of the deceased, would, according to the custom of the country, cease to be entitled to maintenance; and

(c) in all other cases, till the annuitant dies.

IX.—Miscellaneous.

Muhammadan taluqdars and grantees empowered to adopt. **29.** Every Muhammadan taluddar, grantee, heir or legatee, and every widow of a Muhammadan taluqdar or grantee, heir or legatee, with the consent in writing of her deceased husband, shall, for the purposes of this Act, have power to adopt a son whenever, if he or she were a Hindu, he or she might adopt a son.

[1]* * * * * *

Attestation and registration of adoptions. [2][**29A.** No adoption made by a taluqdar or grantee, or by his heir or legatee, or by the widow of any such taluqdar or grantee, heir or legatee, shall be deemed to be valid unless, in addition to the requirements, if any, imposed by the personal law of the adopter, the fact of such adoption has been declared by the adopter in a writing executed and attested in manner required in case of a will and registered.]

Alteration of rules of intestate succession **30.** Any taluqdar or grantee whose name has been entered in the third or fifth of the lists mentioned in section 8, or his heir or legatee, may, at any

[1] The words "Such power shall be exercisable only by writing executed and attested in manner required by s. 19 in case of a will and registered" rep. by s. 15 of the Oudh Estates (Amendment) Act, 1910 (U. P. Act 3 of 1910).

[2] Inserted by s. 16, *ibid*.

(*IX.—Miscellaneous.*)

time hereafter, present to the [1][Provincial Government] a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of an instrument of gift, that he is desirous that the succession to his estate shall, in case of his intestacy, cease to be regulated in the manner described in section 22, and that it shall in future be regulated by the ordinary law to which members of his tribe and religion are subject. in cases of taluqdars and grantees named in list 3 or list 5.

On receiving such declaration, the said [1][Provincial Government] shall cause to be inserted the name of such taluqdar or grantee, heir or legatee in the fourth or sixth (as the case may be) of the lists mentioned in section 8, and shall cause a note thereof to be made in the proper place in the third or fifth (as the case may be) of the said lists, and the succession to such estate shall thenceforward, in case of intestacy, be regulated in the manner provided by section 23.

31. Any taluqdar or grantee, heir or legatee may, at any time hereafter, present to the [1][Provincial Government] a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of instruments of gift, that he is desirous that his estate should in future be held subject to the ordinary law of succession to which members of his tribe and religion are subject. Reverter to ordinary law of succession.

On receiving such declaration, the [1][Provincial Government] shall cause a note thereof to be made in the proper places in each of the lists mentioned in section 8 in which the name of such taluqdar or grantee, heir or legatee, has been entered, and thenceforward none of the provisions of this Act shall apply to such estate, which shall thenceforward be held subject in all respects to the ordinary law of succession to which members of his tribe and religion are subject.

[2][**31A.** (*1*) Any taluqdar whose name has been inserted in the fourth of the lists prepared under section 8, or any grantee whose name has been inserted both in the first and in the sixth of the said lists, or the heir or legatee of such taluqdar or grantee, may declare that the succession to his estate shall, in case of his intestacy, cease to be regulated in the manner described in section 23 and that it shall in future be regulated in the manner described in section 22. Alteration of rules of *intestate* succession in cases of *taluqdars* named in list 4 and *grantees* named in lists 1 and 6.

(*2*) Every such declaration shall be in writing, signed by the declarant, attested by two or more witnesses and registered, and shall be presented to the [3][Provincial Government].

(*3*) On receiving such declaration the [3][Provincial Government] shall cause the name of such taluqdar, grantee, heir or legatee, to be inserted in a

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[1] Subs. by the A. O. for "L. G."

(*IX.—Miscellaneous.*)

[1]list which shall, as occasion may arise, be published in the [2][Official Gazette] and shall cause a note thereof to be made in the proper place in the fourth or sixth (as the case may be) of the said lists.

(*4*) Thenceforward the succession to the estate shall, in the case of intestacy, be regulated in the manner provided by section 22.

(*5*) The Courts shall take judicial notice of such list and shall regard it as conclusive evidence that such declaration has been made, registered and presented as above to the [3][Provincial Government], and that the [3][Provincial Government] has made the note referred to in sub-section (*3*).]

Savings of rights of creditors.

32. Nothing hereinbefore contained shall affect any right which the creditors of any person making a [4][transfer, bequest or declaration] under the provisions of this Act would have possessed as against the property comprised in such [4][transfer, bequest or declaration] if this Act had not been passed.

Power to declare property subject to the Act.

[5][**32A.** (*1*) Any taluqdar, grantee, or his heir or legatee, may, by a registered instrument bearing a non-judicial stamp of fifteen rupees, signed by him and attested by two or more witnesses, declare that the immoveable property situated in the United Provinces in which he has a separate, permanent, heritable and transferable right, and which is specified in the instrument, is a part of his estate for the purposes of this Act.

Such declaration shall take effect from the date of the registration thereof.

(*2*) It shall be the duty of the registering officer to furnish the Collector of every district in which any portion of the property is situated with a properly authenticated copy of the declaration, and on receipt of such copy the Collector shall cause a note to be made in the record of rights relating to the immoveable property specified and shall also cause a copy of the declaration to be published in the [6][Official Gazette] in English and in the vernacular.]

Awards as to compensation and maintenance.

33. And whereas bodies of taluqdars have in several cases made awards respecting the provision to be made for certain relatives of taluqdars, and it is expedient to render such awards legally enforceable; It is hereby further enacted that every such award shall, if approved by the [7]Financial Commissioner of Oudh and filed in his Court within six months after the passing of this Act, be enforceable as if a Court of competent jurisdiction had passed judgment according to the award and a decree had followed upon such judgment.

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[1] For such a list, *see* U. P. Local Rules and Orders.

[2] Subs. by the A. O. for " Gazette of India ".

[3] Subs. by the A. O. for " L. G. ".

[4] Subs. for " *transfer or bequest* " by s. 19 of the Oudh Estates (Amendment) Act, 1910 (U. P. Act 3 of 1910).

[5] Ins. by *ibid*, s. 20.

[6] Subs. by the A. O. for " Gazette ".

[7] Read now " Board of Revenue ". The Chief Commissioner of Oudh was subsequent to the passing of this Act invested with all the powers of the Financial Commissioner as Chief Controlling Revenue-authority in Oudh, *see* Notification No. 316, dated 22nd September 1871, Gazette of India, 1871, Pt. I, p. 727; and under the U. P. Act, 1890 (20 of 1890), the Board of Revenue takes the place of the Chief Commissioner and Chief Controlling Revenue-authority.

SCHEDULES

FIRST SCHEDULE

(See section 3)

I

From C BEADON, Esq, Secretary to the Government of India, Foreign Department to C J WINGFIELD, Esq, Chief Commissioner of Oudh —(No. 6268, dated 10th October, 1859)

I AM directed by the Governor General in Council to acknowledge the receipt of your Secretary's letters noted in the margin, relative to the taluqdari settlement of Oudh No 1091, dated the 4th June No 1377, dated the 15th July.

2 His Excellency in Council, agreeing with you as to the expediency of removing all doubts as to the intention of the Government to maintain the taluqdars in possession of the taluqas for which they have been permitted to engage, is pleased to declare that every taluqdar with whom a summary settlement has been made since the re occupation of the province has thereby acquired a permanent hereditary and transferable proprietary right, namely, in the taluqa for which he has engaged, including the perpetual privilege of engaging with the Government for the revenue of the taluqa

3 This right is, however, conceded subject to any measure which the Government may think proper to take for the purpose of protecting the inferior zamindars and village-occupants from extortion, and of upholding their rights in the soil in subordination to the taluqdars

4 The Governor General in Council desires that you will have ready, by His Excellency's arrival at Lucknow, a list of the taluqdars upon whom a permanent proprietary right has now been conferred, and that you will prepare sanads to be issued to these taluqdars at that time The sanads will be given by, and will run in the name of, the Chief Commissioner, acting under the authority of the Governor General

5 I am directed to add that, as regards zamindars and others not being taluqdars, with whom a summary settlement has been made, the orders conveyed in the Limitation Circular No 31 of the 28th of January, 1859, must not be strictly observed Opportunity must be allowed at the next settlement to all disappointed claimants, to bring forward their claims, and all such claims must be heard and disposed of in the usual manner

II

From C BEADON Esq Secretary to the Government of India Foreign Department with the Governor General to Chief Commissioner, Oudh —(No 23 dated 19th October, 1859)

I AM directed by His Excellency the Governor General to acknowledge the receipt of your demi official letter of the 15th instant, enclosing a form of sanad to be given to the taluqdars of Oudh, granting them a full and

(*Schedules.*)

permanent proprietary right in the taluqas for which they have severally been permitted to engage at the summary settlement.

2. This form of sanad is generally approved, and a revised copy, with some few alterations, is herewith enclosed for adoption and for careful translation into the Hindustani language, in which the sanads will be prepared.

3. The sanads declare that while, on the one hand, the Government has conferred on the taluqdars and on their heirs for ever the full proprietary right in their respective estates, subject only to the payment of the annual revenue that may be imposed from time to time, and to certain conditions of loyalty and good service, on the other hand, all persons holding an interest in the land under the taluqdars will be secured in the possession of the subordinate rights which they have heretofore enjoyed.

4. The meaning of this is that, when a regular settlement of the province is made, wherever it is found that zamindars or other persons have held an interest in the soil intermediate between the raiyat and the taluqdar, the amount or proportion payable by the intermediate holder to the taluqdar, and the net jama finally payable by the taluqdar to the Government, will be fixed and recorded after careful and detailed survey and inquiry into each case, and will remain unchanged during the currency of the settlement, the taluqdar being, of course, free to improve his income and the value of his property by the reclamation of waste-lands (unless in cases where usage has given the liberty of reclamation to the zamindar), and by other measures of which he will receive the full benefit at the end of the settlement. Where leases (pattas) are given to the subordinate zamindars, they will be given by the taluqdar, not by the Government.

5. This being the position in which the taluqdars will be placed, they cannot, with any show of reason, complain if the Government takes effectual steps to re-establish and maintain in subordination to them the former rights, as those existed in 1855, of other persons whose connexion with the soil is, in many cases, more intimate and more ancient than theirs; and it is obvious that the only effectual protection which the Government can extend to these inferior holders is to define and record their rights and to limit the demand of the taluqdars as against such persons during the currency of the settlement to the amount fixed by the Government as the basis of its own revenue-demand.

6. What the duration of the settlement shall be, and what proportion of the rent shall be allowed in each case to zamindars and taluqdars, are questions to be determined at the time of settlement.

The Governor General agrees in your observation that it is a bad principle to create two classes of recognized proprietors in one estate, and it is likely to lead to the alienation of a larger proportion of the land-revenue than if there were only one such class. But whilst the taluqdari tenure, notwithstanding this drawback, is about to be recognized and re-established, because it is consonant with the feelings and traditions of the whole people of Oudh,

the zamindari tenure intermediate between the tenures of the taluqdar and the raiyat is not a new creation, and it is a tenure which, in the opinion of the Governor General, must be protected

SECOND SCHEDULE

(See section 4)

(1) Dig Bijay Singh, Raja of Balrampur
(2) Rao Hardeo Bakhsh Singh of Katiari
(3) Kashi Parshad, Taluqdar of Sissendi
(4) Jhabba Singh, Zamindar of Gopal Khera
(5) Chandan Lal, Zamindar of Moraon (Baiswara)

THE INDIAN DIVORCE ACT

CONTENTS

permanent proprietary right in the taluqas for which they have severally been permitted to engage at the summary settlement.

2. This form of sanad is generally approved, and a revised copy, with some few alterations, is herewith enclosed for adoption and for careful translation into the Hindustani language, in which the sanads will be prepared.

3. The sanads declare that while, on the one hand, the Government has conferred on the taluqdars and on their heirs for ever the full proprietary right in their respective estates, subject only to the payment of the annual revenue that may be imposed from time to time, and to certain conditions of loyalty and good service, on the other hand, all persons holding an interest in the land under the taluqdars will be secured in the possession of the subordinate rights which they have heretofore enjoyed.

4. The meaning of this is that, when a regular settlement of the province is made, wherever it is found that zamindars or other persons have held an interest in the soil intermediate between the raiyat and the taluqdar, the amount or proportion payable by the intermediate holder to the taluqdar, and the net jama finally payable by the taluqdar to the Government, will be fixed and recorded after careful and detailed survey and inquiry into each case, and will remain unchanged during the currency of the settlement, the taluqdar being, of course, free to improve his income and the value of his property by the reclamation of waste-lands (unless in cases where usage has given the liberty of reclamation to the zamindar), and by other measures of which he will receive the full benefit at the end of the settlement. Where leases (pattas) are given to the subordinate zamindars, they will be given by the taluqdar, not by the Government.

5. This being the position in which the taluqdars will be placed, they cannot, with any show of reason, complain if the Government takes effectual steps to re-establish and maintain in subordination to them the former rights, as those existed in 1855, of other persons whose connexion with the soil is, in many cases, more intimate and more ancient than theirs; and it is obvious that the only effectual protection which the Government can extend to these inferior holders is to define and record their rights and to limit the demand of the taluqdars as against such persons during the currency of the settlement to the amount fixed by the Government as the basis of its own revenue-demand.

6. What the duration of the settlement shall be, and what proportion of the rent shall be allowed in each case to zamindars and taluqdars, are questions to be determined at the time of settlement.

The Governor General agrees in your observation that it is a bad principle to create two classes of recognized proprietors in one estate, and it is likely to lead to the alienation of a larger proportion of the land-revenue than if there were only one such class. But whilst the taluqdari tenure, notwithstanding this drawback, is about to be recognized and re-established, because it is consonant with the feelings and traditions of the whole people of Oudh,

the zamindari tenure intermediate between the tenures of the taluqdar and the raiyat is not a new creation and it is a tenure which, in the opinion of the Governor General, must be protected

SECOND SCHEDULE

(See section 4)

(1) Dig Bijay Singh, Raja of Balrampur
(2) Rao Hardeo Bakhsh Singh of Katiari
(3) Kashi Parshad, Taluqdar of Sissendi
(4) Jhabba Singh, Zamindar of Gopal Khera.
(5) Chandan Lal, Zamindar of Moraon (Baiswara)

THE INDIAN DIVORCE ACT.

CONTENTS

XIII.—Re-marriage.

XIV.—Miscellaneous.

SCHEDULE OF FORMS.

Nos.

(I —Preliminary)

[1]Act No IV of 1869

[26th February, 1869]

An Act to amend the law relating to Divorce and Matrimonial Causes in India

Whereas it is expedient to amend the law relating to the divorce of persons professing the Christian religion, and to confer upon certain Courts jurisdiction in matters matrimonial, It is hereby enacted as follows — Preamble

I —Preliminary

1. This Act may be called the Indian Divorce Act, and shall come into operation on the first day of April, 1869 Short title Commencement of Act

2. This Act shall extend to the whole of British India, and so far only as regards British subjects within the [2][territories hereinafter mentioned] to the [3][Indian States] Extent of Act

[4][Nothing hereinafter contained shall authorise any Court to grant any relief under this Act except where the petitioner [5][or respondent] professes the Christian religion, Extent of power to grant relief generally,

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[1] For Statement of Objects and Reasons see Calcutta Gazette, 1863 p 173, for Report of Select Committee see Gazette of India, 1869, p 192 for Proceedings in Council see Calcutta Gazette, 1862 Supplement, p 463, ibid, 1863 Supplement, p 43, and Gazette of India, 1869, Supplement, p 291

This Act extends to India the principal provisions of the Matrimonial Causes Act, 1857 (20 & 21 Vict, c 85), as amended by the Matrimonial Causes Act 1859 (22 & 23 Vict, c 61), the Matrimonial Causes Act, 1860 (23 & 24 Vict c 144) and the Matrimonial Causes Act, 1866 (29 & 30 Vict, c 32) It also embodies many rulings of Sir Cresswell Cresswell and Lord Penzance

Provision was made by the Indian Divorces (Validity) Act (10 & 11 Geo 5, ch 18) with respect to the validity of certain decrees granted in India for the dissolution of the marriage of persons domiciled in the United Kingdom

It has been declared to be in force in—

Santhal Parganas by the Santhal Parganas Settlement Regulation (3 of 1872) s 3,
British Baluchistan by the British Baluchistan Laws Regulation 1913 (2 of 1913), s 3,
Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s 3 and Sch, and
Angul District by the Angul Laws Regulation 1936 (5 of 1936) s 3 and Sch

It has been declared by notification under s 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874) to be in force in the following Scheduled Districts, namely —

the Districts of Hazaribagh Lohardaga and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singbhum see Gazette of India 1881, Pt I, p 504,

(The District of Lohardaga included at that time the present district of Palamau which was separated in 1894 The District of Lohardaga is now called the Ranchi District—see Calcutta Gazette, 1899, Pt I, p 44)

[illegible]

paragraph

[4] Ins by the Indian Divorce (Second Amendment) Act, 1927 (30 of 1927), s 2

(I.—Preliminary.)

and to make decrees of dissolution, or to make decrees of dissolution of marriage except where the parties to the marriage are domiciled in India at the time when the petition is presented,

or of nullity. or to make decrees of nullity of marriage except where the marriage has been solemnized in India and the petitioner is resident in India at the time of presenting the petition,

or to grant any relief under this Act, other than a decree of dissolution of marriage or of nullity of marriage, except where the petitioner resides in India at the time of presenting the petition.]

Interpretation-clause. **3.** In this Act, unless there be something repugnant in the subject or context,—

"High-Court." [1][(1) "High Court" means with reference to any area—

(a) in Bengal, Assam and the Andaman and Nicobar Islands, the High Court at Calcutta;

(b) in the Provinces of Madras and Coorg, the High Court at Madras;

(c) in the Province of Bombay and in Panth Piploda, the High Court at Bombay;

(d) in Agra and Ajmer-Merwara, the High Court at Allahabad;

[2](e) in Oudh, the Chief Court of Oudh;

(f) in the Punjab, the [3]North-West Frontier Province, British Baluchistan and Delhi, the High Court at Lahore;

(g) in Bihar and Orissa, the High Court at Patna;

[4](h) in the Central Provinces and Berar, the High Court at Nagpur;

(i) in Sind, the Court of the Judicial Commissioner in Sind; and

26 Geo. 5, c. 2. (j) in any Indian State, the Court which is a High Court for the purposes of the [5]Government of India Act, 1935, and exercises

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[1] Subs. by the A. O. for original clause, as amended by the Repealing and Amending Act, 1919 (18 of 1919), the Oudh Courts (Supplementary) Act, 1925 (32 of 1925) and the C. P. Courts (Supplementary) Act, 1935 (8 of 1935), which read thus—

"(1) "High Court" means,—

in any Regulation province—the Court there established under the Act of the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four;

in the territories for the time being subject to the government of the Lieutenant-Governor of the Punjab—the High Court of Judicature at Lahore;

in Burma—the High Court of Judicature at Rangoon;

in the C. P.—the High Court of Judicature at Nagpur;

in Oudh—the Chief Court of Oudh;

in Sind—the Chief Court of Sind;

and in any other Non-Regulation province and in any place in the dominions of the Princes and States of India in alliance with Her Majesty—the High Court or Chief Court to whose original criminal jurisdiction the petitioner is for the time being subject, or would be subject if he or she were a European British subject of Her Majesty.

In the case of any petition under this Act, "High Court" is that one of the aforesaid Courts within the local limits of whose ordinary appellate jurisdiction, or of whose jurisdiction under this Act, the husband and wife reside or last resided together:"

[2] Cf. the Oudh Courts (Supplementary) Act, 1925 (32 of 1925).

[3] Cf. the N. W. F. P. Law and Justice Regulation, 1901 (Reg. 7 of 1901), s. 6 (1) (c), as amended by Reg. 1 of 1919.

[4] Cf. the C. P. Courts (Supplementary) Act, 1935 (8 of 1935), Sch., and the Jubbulpore and Chhattisgarh Divisions (Divorce Proceedings Validation) Act, 1935 (13 of 1935).

[5] See s. 219.

(I.—Preliminary.)

original criminal jurisdiction in respect of European British subjects in that area.

In the case of any petition under this Act, "High Court" means the High Court for the area where the husband and wife reside or last resided together.]

"District Judge."

[1][(2) "District Judge" means—

(a) in a Province, a Judge of a Principal Civil Court of original jurisdiction, however designated, and

(b) in any area in an Indian State, such officer as the Central Government shall from time to time appoint in this behalf by notification in the Official Gazette, and, in the absence of such an officer, the High Court for the area.]

"District Court."

(3) "District Court" means, in the case of any petition under this Act, the Court of the District Judge within the local limits of whose ordinary jurisdiction, or of whose jurisdiction under this Act, the husband and wife reside or last resided together.

"Court."

(4) "Court" means the High Court or the District Court, as the case may be.

"Minor children."

(5) "minor children" means, in the case of sons of Native fathers boys who have not completed the age of sixteen years, and, in the case of daughters of Native fathers, girls who have not completed the age of thirteen years. In other cases it means unmarried children who have not completed the age of eighteen years.

"Incestuous adultery."

(6) "incestuous adultery" means adultery committed by a husband with a woman with whom if his wife were dead, he could not lawfully contract marriage by reason of her being within the prohibited degrees of consanguinity (whether natural or legal) or affinity.

"Bigamy with adultery."

(7) "bigamy with adultery" means adultery with the same woman with whom the bigamy was committed.

"Marriage with another woman."

(8) "marriage with another woman" means marriage of any person, being married, to any other person, during the life of the former wife, whether

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[1] Subs. by the A. O. The clause as originally enacted was as follows:—

in Pegu—the Recorder of Rangoon,
in Arakan—the Recorder at Rangoon until a Recorder's Court is established at Akyab and thenceforward the Recorder at Akyab,
in the Tenasserim Provinces—the Recorder at Moulmein,
in Sindh—the Judicial Commissioner in that Province,
and [illegible]

For [illegible]

the second marriage shall have taken place within the dominions of Her Majesty or elsewhere :

"Desertion." (9) "desertion" implies an abandonment against the wish of the person charging it : and

"Property." (10) "property" includes, in the case of a wife, any property to which she is entitled for an estate in remainder or reversion, or as a trustee, executrix or administratrix ; and the date of the death of the testator or intestate shall be deemed to be the time at which any such wife becomes entitled as executrix or administratrix.

II.—Jurisdiction.

Matrimonial jurisdiction of High Courts to be exercised subject to Act. Exception.

4. The jurisdiction now exercised by the High Courts in respect of divorce *a mensâ et toro*, and in all other causes, suits and matters matrimonial, shall be exercised by such Courts and by the District Courts subject to the provisions in this Act contained, and not otherwise : except so far as relates to the granting of marriage-licenses, which may be granted as if this Act had not been passed.

Enforcement of decrees or orders made heretofore by Supreme or High Court.

5. Any decree or order of the late Supreme Court of Judicature at Calcutta, Madras or Bombay sitting on the ecclesiastical side, or of any of the said High Courts sitting in the exercise of their matrimonial jurisdiction, respectively, in any cause or matter matrimonial, may be enforced and dealt with by the said High Courts, respectively, as hereinafter mentioned, in like manner as if such decree or order had been originally made under this Act by the Court so enforcing or dealing with the same.

Pending suits.

6. All suits and proceedings in causes and matters matrimonial, which when this Act comes into operation are pending in any High Court, shall be dealt with and decided by such Court, so far as may be, as if they had been originally instituted therein under this Act.

t to act principles f English ivorce Court.

7. Subject to the provisions contained in this Act, the High Courts and District Courts shall, in all suits and proceedings hereunder, act and give relief on principles and rules which, in the opinion of the said Courts, are as nearly as may be conformable to the principles and rules on which the Court for Divorce and Matrimonial Causes in England for the time being acts and gives relief:

[1] [Provided that nothing in this section shall deprive the said Courts of jurisdiction in a case where the parties to a marriage professed the Christian religion at the time of the occurrence of the facts on which the claim to relief is founded.]

Extraordinary jurisdiction of High Court.

8. The High Court may, whenever it thinks fit, remove and try and determine as a Court of original jurisdiction any suit or proceeding instituted under this Act in the Court of any District Judge within the limits of its jurisdiction under this Act.

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[1] Ins. by the Indian Divorce (Amendment) Act, 1912 (10 of 1912), s. 2.

The High Court may also withdraw any such suit or proceeding and transfer it for trial or disposal to the Court of any other such District Judge *Power to transfer suits*

9. When any question of law or usage having the force of law arises at any point in the proceedings previous to the hearing of any suit under this Act by a District Court or at any subsequent stage of such suit, or in the execution of the decree therein or order thereon, *Reference to High Court*

the Court may, either of its own motion or on the application of any of the parties draw up a statement of the case and refer it, with the Court's own opinion thereon, to the decision of the High Court

If the question has arisen previous to or in the hearing, the District Court may either stay such proceedings, or proceed in the case pending such reference and pass a decree contingent upon the opinion of the High Court upon it

If a decree or order has been made, its execution shall be stayed until the receipt of the order of the High Court upon such reference

III —Dissolution of Marriage

10. Any husband may present a petition to the District Court or to the High Court, praying that his marriage may be dissolved on the ground that his wife has, since the solemnization thereof been guilty of adultery *When husband may petition for dissolution*

Any wife may present a petition to the District Court or to the High Court, praying that her marriage may be dissolved on the ground that since the solemnization thereof, her husband has exchanged his profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman , *When wife may petition for dissolution*

or has been guilty of incestuous adultery,

or of bigamy with adultery,

or of marriage with another woman with adultery

or of rape, sodomy or bestiality,

or of adultery coupled with such cruelty as without adultery would have entitled her to a divorce *a mensa et toro,*

or of adultery coupled with desertion, without reasonable excuse, for two years or upwards

Every such petition shall state, as distinctly as the nature of the case permits, the facts on which the claim to have such marriage dissolved is founded *Contents of petition*

11 Upon any such petition presented by a husband, the petitioner shall make the alleged adulterer a co respondent to the said petition unless he is excused from so doing on one of the following grounds, to be allowed by the Court — *Adulterer to be co respondent*

(1) that the respondent is leading the life of a prostitute, and that the petitioner knows of no person with whom the adultery has been committed ,

(*III.—Dissolution of Marriage.*)

(2) that the name of the alleged adulterer is unknown to the petitioner although he has made due efforts to discover it;

(3) that the alleged adulterer is dead.

Court to be satisfied of absence of collusion.

12. Upon any such petition for the dissolution of a marriage, the Court shall satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or not the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery, or has condoned the same, and shall also inquire into any counter-charge which may be made against the petitioner.

Dismissal of petition.

13. In case the Court, on the evidence in relation to any such petition, is satisfied that the petitioner's case has not been proved, or is not satisfied that the alleged adultery has been committed,

or finds that the petitioner has, during the marriage, been accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

then and in any of the said cases the Court shall dismiss the petition.

When a petition is dismissed by a District Court under this section, the petitioner may, nevertheless, present a similar petition to the High Court.

Power to Court to pronounce decree for dissolving marriage.

14. In case the Court is satisfied on the evidence that the case of the petitioner has been proved,

and does not find that the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

the Court shall pronounce a decree declaring such marriage to be dissolved in the manner and subject to all the provisions and limitations in sections 16 and 17 made and declared:

Provided that the Court shall not be bound to pronounce such decree if it finds that the petitioner has, during the marriage, been guilty of adultery,

or if the petitioner has, in the opinion of the Court, been guilty of unreasonable delay in presenting or prosecuting such petition,

or of cruelty towards the other party to the marriage,

or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse.

or of such wilful neglect or misconduct of or towards the other party as has conduced to the adultery.

(III.—Dissolution of Marriage.)

No adultery shall be deemed to have been condoned within the meaning of this Act unless where conjugal co-habitation has been resumed or continued. Condonation.

15. In any suit instituted for dissolution of marriage, if the respondent opposes the relief sought on the ground, in case of such a suit instituted by a husband, of his adultery, cruelty or desertion without reasonable excuse, or, in case of such a suit instituted by a wife, on the ground of her adultery and cruelty, the Court may in such suit give to the respondent, on his or her application, the same relief to which he or she would have been entitled in case he or she had presented a petition seeking such relief, and the respondent shall be competent to give evidence of or relating to such cruelty or desertion. Relief in case of opposition on certain grounds.

16. Every decree for a dissolution of marriage made by a High Court not being a confirmation of a decree of a District Court, shall in the first instance, be a decree *nisi*, not to be made absolute till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court by general or special order from time to time directs. Decrees for dissolution to be *nisi*.

During that period any person shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to show cause why the said decree should not be made absolute by reason of the same having been obtained by collusion or by reason of material facts not being brought before the Court. Collusion.

On cause being so shown, the Court shall deal with the case by making the decree absolute, or by reversing the decree *nisi*, or by requiring further inquiry, or otherwise as justice may demand.

The High Court may order the costs of counsel and witnesses, and otherwise arising from such cause being shown, to be paid by the parties or such one or more of them as it thinks fit, including a wife if she have separate property.

Whenever a decree *nisi* has been made, and the petitioner fails, within a reasonable time, to move to have such decree made absolute, the High Court may dismiss the suit.

17. Every decree for a dissolution of marriage made by a District Judge shall be subject to confirmation by the High Court. Confirmation of decree for dissolution by District Judge.

Cases for confirmation of a decree for dissolution of marriage shall be heard (where the number of the Judges of the High Court is three or upwards) by a Court composed of three such Judges, and in case of difference the opinion of the majority shall prevail, or (where the number of the Judges of the High Court is two) by a Court composed of such two Judges, and in case of difference the opinion of the senior Judge shall prevail.

The High Court, if it think further enquiry or additional evidence to be necessary, may direct such enquiry to be made or such evidence to be taken.

The result of such enquiry and the additional evidence shall be certified to the High Court by the District Judge, and the High Court shall thereupon make an order confirming the decree for dissolution of marriage, or such other order as to the Court seems fit :

Provided that no decree shall be confirmed under this section till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court by general or special order from time to time directs.

During the progress of the suit in the Court of the District Judge, any person, suspecting that any parties to the suit are or have been acting in collusion for the purpose of obtaining a divorce, shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to apply to the High Court to remove the suit under section 8, and the High Court shall thereupon, if it think fit, remove such suit and try and determine the same as a Court of original jurisdiction, and the provisions contained in section 16 shall apply to every suit so removed ; or it may direct the District Judge to take such steps in respect of the alleged collusion as may be necessary to enable him to make a decree in accordance with the justice of the case.

Appointment of officer to exercise duties of King's Proctor.

17A. [1][The Provincial Government of any Province within which any High Court established by Letters Patent exercises jurisdiction, may appoint an officer who shall, within the jurisdiction of the High Court in that Province, have the like right of showing cause why a decree for the dissolution of a marriage should not be made absolute or should not be confirmed, as the case may be, as is exercisable in England by the King's Proctor ; and the said Government may make rules regulating the manner in which the right shall be exercised and all matters incidental to or consequential on any exercise of the right.

In relation to the jurisdiction of any such High Court as aforesaid in an Indian State this section shall have effect as if the reference to the Provincial Government was a reference to the Central Government.]

IV.—Nullity of Marriage.

Petition for decree of nullity.

18. Any husband or wife may present a petition to the District Court or to the High Court, praying that his or her marriage may be declared null and void.

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[1] Subs. by the A. O. for original section 17A as ins. by s. 2 of the Indian Divorce (Amendment) Act, 1927 (15 of 1927), which read as follows :—

" The G. G. *in C. may appoint* for each High Court of Judicature established by Letters Patent an officer who shall, within the jurisdiction of the High Court for which he is appointed, have the like right of showing cause why a decree for the dissolution of marriage should not be made absolute or should not be confirmed, as the case may be, as is exercisable in England by the King's Proctor, and the G. G. in C. may make rules regulating the manner in which the right shall be exercised and all matters incidental to, or consequential on, such exercise."

(IV —Nullity of Marriage V —Judicial Separation)

19. Such decree may be made on any of the following grounds — Grounds of decrees.

(1) that the respondent was impotent at the time of the marriage and at the time of the institution of the suit ,

(2) that the parties are within the prohibited degrees of consanguinity (whether natural or legal) or affinity ,

(3) that either party was a lunatic or idiot at the time of the marriage ,

(4) that the former husband or wife of either party was living at the time of the marriage, and the marriage with such former husband or wife was then in force

Nothing in this section shall affect the jurisdiction of the High Court to make decrees of nullity of marriage on the ground that the consent of either party was obtained by force or fraud

20. Every decree of nullity of marriage made by a District Judge shall be subject to confirmation by the High Court, and the provisions of section 17, clauses 1, 2, 3 and 4, shall, *mutatis mutandis,* apply to such decrees Confirmation of District Judge s decree

21. Where a marriage is annulled on the ground that a former husband or wife was living, and it is adjudged that the subsequent marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, or when a marriage is annulled on the ground of insanity, children begotten before the decree is made shall be specified in the decree, and shall be entitled to succeed, in the same manner as legitimate children, to the estate of the parent who at the time of the marriage was competent to contract Children of annulled marriage

V —Judicial Separation

22. No decree shall hereafter be made for a divorce *a mensâ et toro,* but the husband or wife may obtain a decree of judicial separation, on the ground of adultery, or cruelty, or desertion without reasonable excuse for two years or upwards, and such decree shall have the effect of a divorce *a mensâ et toro* under the existing law, and such other legal effect as hereinafter mentioned Bar to decree for divorce *a mensâ et toro*, but judicial separation obtainable by husband or wife

23. Application for judicial separation on any one of the grounds aforesaid may be made by either husband or wife by petition to the District Court or the High Court , and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly Application for separation made by petition

24. In every case of a judicial separation under this Act, the wife shall, from the date of the sentence, and whilst the separation continues, be considered as unmarried with respect to property of every description which she may acquire, or which may come to or devolve upon her Separated wife deemed spinster with respect to after acquired property

Such property may be disposed of by her in all respects as an unmarried woman, and on her decease the same shall, in case she dies intestate, go as the same would have gone if her husband had been then dead

Provided that, if any such wife again cohabits with her husband, all such property as she may be entitled to when such cohabitation takes place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

Separated wife deemed spinster for purposes of contract and suing.

25. In every case of a judicial separation under this Act, the wife shall whilst so separated, be considered as an unmarried woman for the purposes of contract, and wrongs and injuries, and suing and being sued in any civil proceeding; and her husband shall not be liable in respect of any contract, act or costs entered into, done, omitted or incurred by her during the separation:

Provided that where, upon any such judicial separation, alimony has been decreed or ordered to be paid to the wife, and the same is not duly paid by the husband, he shall be liable for necessaries supplied for her use:

Provided also that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

Reversal of Decree of Separation.

Decree of separation obtained during absence of husband or wife may be reversed.

26. Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree of judicial separation has been pronounced, may, at any time thereafter, present a petition to the Court by which the decree was pronounced, praying for a reversal of such decree, on the ground that it was obtained in his or her absence, and that there was reasonable excuse for the alleged desertion, where desertion was the ground of such decree.

The Court may, on being satisfied of the truth of the allegations of such petition, reverse the decree accordingly; but such reversal shall not prejudice or affect the rights or remedies which any other person would have had, in case it had not been decreed, in respect of any debts, contracts or acts of the wife incurred, entered into or done between the times of the sentence of separation and of the reversal thereof.

VI.—Protection-orders.

Deserted wife may apply to Court for protection.

27. Any wife to whom section 4 of the Indian Succession Act, 1865,[1] X of 1 does not apply, may, when deserted by her husband, present a petition to the District Court or the High Court, at any time after such desertion, for an order to protect any property which she may have acquired or may acquire, and any property of which she may have become possessed or may become possessed after such desertion, against her husband or his creditors, or any person claiming under him.

Court may grant protection-order.

28. The Court, if satisfied of the fact of such desertion, and that the same was without reasonable excuse, and that the wife is maintaining herself by

[1] *See* now the Indian Succession Act, 1925 (39 of 1925).

(VI.—Protection-orders. VII.—Restitution of Conjugal Rights. VIII.—Damages and Costs.)

her own industry or property, may make and give to the wife an order protecting her earnings and other property from her husband and all creditors and persons claiming under him. Every such order shall state the time at which the desertion commenced, and shall, as regards all persons dealing with the wife in reliance thereon, be conclusive as to such time.

29. The husband or any creditor of, or person claiming under him, may apply to the Court by which such order was made for the discharge or variation thereof, and the Court, if the desertion has ceased, or if for any other reason it think fit so to do, may discharge or vary the order accordingly. Discharge or variation of orders.

30. If the husband, or any creditor of, or person claiming under, the husband, seizes or continues to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife (which she is hereby empowered to bring), to return or deliver to her the specific property, and also to pay her a sum equal to double its value. Liability of husband seizing wife's property after notice of order.

31. So long as any such order of protection remains in force, the wife shall be and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts and suing and being sued, as she would be under this Act if she obtained a decree of judicial separation. Wife's legal position during continuance of order.

VII.—Restitution of Conjugal Rights.

32. When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, either wife or husband may apply, by petition to the District Court or the High Court, for restitution of conjugal rights, and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly. Petition for restitution of conjugal rights.

33. Nothing shall be pleaded in answer to a petition for restitution of conjugal rights which would not be ground for a suit for judicial separation or for a decree of nullity of marriage. Answer to petition.

VIII.—Damages and Costs.

34. Any husband may, either in a petition for dissolution of marriage or for judicial separation, or in a petition to the District Court or the High Court limited to such object only, claim damages from any person on the ground of his having committed adultery with the wife of such petitioner. Husband may claim damages from adulterer.

Such petition shall be served on the alleged adulterer and the wife, unless the Court dispenses with such service, or directs some other service to be substituted.

The damages to be recovered on any such petition shall be ascertained by the said Court, although the respondents or either of them may not appear.

After the decision has been given, the Court may direct in what manner such damages shall be paid or applied.

(VIII.—Damages and Costs. IX.—Alimony.)

Power to order adulterer to pay costs.

35. Whenever in any petition presented by a husband, the alleged adulterer has been made a co-respondent, and the adultery has been established, the Court may order the co-respondent to pay the whole or any part of the cost of the proceedings:

Provided that the co-respondent shall not be ordered to pay the petitioner's costs—

(1) if the respondent was, at the time of the adultery, living apart from her husband and leading the life of a prostitute, or

(2) if the co-respondent had not, at the time of the adultery, reason to believe the respondent to be a married woman.

Power to order litigious intervenor to pay costs.

Whenever any application is made under section 17, the Court, if it thinks that the applicant had no grounds or no sufficient grounds for intervening may order him to pay the whole or any part of the costs occasioned by the application.

IX.—Alimony.

Alimony *pendente lite.*

36. In any suit under this Act, whether it be instituted by a husband or a wife, and whether or not she has obtained an order of protection, the wife may present a petition for alimony pending the suit.

Such petition shall be served on the husband; and the Court, on being satisfied of the truth of the statements therein contained, may make such order on the husband for payment to the wife of alimony pending the suit as it may deem just:

Provided that alimony pending the suit shall in no case exceed one-fifth of the husband's average nett income for the three years next preceding the date of the order, and shall continue, in case of a decree for dissolution of marriage or of nullity of marriage, until the decree is made absolute or is confirmed, as the case may be.

Power to order permanent alimony.

37. The High Court may, if it think fit, on any decree absolute declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife,

and the District Judge may, if he thinks fit, on the confirmation of any decree of his, declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife,

order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum of money, or such annual sum of money for any term not exceeding her own life, as having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it thinks reasonable, and for that purpose may cause a proper instrument to be executed by all necessary parties.

Power to order monthly or weekly payments.

In every such case the Court may make an order on the husband for payment to the wife of such monthly or weekly sums for her maintenance and support as the Court may think reasonable:

Provided that if the husband afterwards from any cause becomes unable to make such payments, it shall be lawful for the Court to discharge or modify the order, or temporarily to suspend the same as to the whole or any part of the money so ordered to be paid, and again to revive the same order wholly or in part, as to the Court seems fit.

38. In all cases in which the Court makes any decree or order for alimony it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court seem expedient, and may from time to time appoint a new trustee, if it appears to the Court expedient so to do.

Court may direct payment of alimony to wife or to her trustee.

X.—Settlements.

39. Whenever the Court pronounces a decree of dissolution of marriage or judicial separation for adultery of the wife, if it is made to appear to the Court that the wife is entitled to any property, the Court may, if it think fit, order such settlement as it thinks reasonable to be made of such property or any part thereof, for the benefit of the husband, or of the children of the marriage, or of both.

Power to order settlement of wife's property for benefit of husband and children.

Any instrument executed pursuant to any order of the Court at the time of or after the pronouncing of a decree of dissolution of marriage or judicial separation shall be deemed valid notwithstanding the existence of the disability of coverture at the time of the execution thereof.

The Court may direct that the whole or any part of the damages recovered under section 34 shall be settled for the benefit of the children of the marriage, or as a provision for the maintenance of the wife.

Settlement of damages.

40. The High Court, after a decree absolute for dissolution of marriage, or a decree of nullity of marriage,

and the District Court, after its decree for dissolution of marriage or of nullity of marriage has been confirmed,

may inquire into the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders, with reference to the application of the whole or a portion of the property settled, whether for the benefit of the husband or the wife, or of the children (if any) of the marriage, or of both children and parents, as to the Court seems fit:

Inquiry into existence of ante-nuptial or post-nuptial settlements.

Provided that the Court shall not make any order for the benefit of the parents or either of them at the expense of the children.

XI.—Custody of Children.

41. In any suit for obtaining a judicial separation the Court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree, as it deems proper with respect to the custody, maintenance and education of the minor children, the marriage of

Power to make orders as to custody of children.

in suit for separation. whose parents is the subject of such suit, and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the said Court.

Power to make such orders after decree. **42.** The Court, after a decree of judicial separation, may upon application (by petition) for this purpose make, from time to time, all such orders and provision, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the decree, or for placing such children under the protection of the said Court, as might have been made by such decree or by interim orders in case the proceedings for obtaining such decree were still pending.

Power to make orders as to custody of children in suits for dissolution or nullity. **43.** In any suit for obtaining a dissolution of marriage or a decree of nullity of marriage instituted in, or removed to, a High Court, the Court may from time to time, before making its decree absolute or its decree (as the case may be), make such interim orders, and may make such provision in the decree absolute or decree,

and in any such suit instituted in a District Court, the Court may from time to time, before its decree is confirmed, make such interim orders, and may make such provision on such confirmation,

as the High Court or District Court (as the case may be) deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the suit;

and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the Court.

Power to make such orders after decree or confirmation. **44.** The High Court, after a decree absolute for dissolution of marriage or a decree of nullity of marriage,

and the District Court, after a decree for dissolution of marriage or of nullity of marriage has been confirmed,

may, upon application by petition for the purpose, make from time to time all such orders and provision, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents was the subject of the decree, or for placing such children under the protection of the said Court, as might have been made by such decree absolute or decree (as the case may be), or by such interim orders as aforesaid.

XII.—Procedure.

Code of Civil Procedure to apply. **45.** Subject to the provisions herein contained, all proceedings under this Act between party and party shall be regulated by the Code of Civil Procedure[1].

Forms of petitions and statements. **46.** The forms set forth in the schedule to this Act, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.

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[1] *See* now the Code of Civil Procedure, 1908 (5 of 1908).

(XII —Procedure)

47. Every petition under this Act for a decree of dissolution of marriage or of nullity of marriage, or of judicial separation [1]* * * shall [1]* * * state that there is not any collusion or connivance between the petitioner and the other party to the marriage, — Stamp on petition. Petition to state absence of collusion.

the statements contained in every petition under this Act shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints, and may at the hearing be referred to as evidence — Statements to be verified.

48. When the husband or wife is a lunatic or idiot, any suit under this Act (other than a suit for restitution of conjugal rights) may be brought on his or her behalf by the committee or other person entitled to his or her custody — Suits on behalf of lunatics.

49. Where the petitioner is a minor, he or she shall sue by his or her next friend to be approved by the Court, and no petition presented by a minor under this Act shall be filed until the next friend has undertaken in writing to be answerable for costs — Suits by minors.

Such undertaking [2]* * * shall be filed in Court and the next friend shall thereupon be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary suit

50. Every petition under this Act shall be served on the party to be affected thereby, either within or without British India, in such manner as the High Court by general or special order from time to time directs — Service of petition.

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do

51. The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any party may offer himself or herself as a witness, and shall be examined, and may be cross examined and re examined, like any other witness — Mode of taking evidence.

Provided that the parties shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party, or by direction of the Court, be subject to be cross examined by or on behalf of the opposite party orally, and after such cross examination may be re examined orally as aforesaid by or on behalf of the party by whom such affidavit was filed

52. On any petition presented by a wife, praying that her marriage may be dissolved by reason of her husband having been guilty of adultery coupled with cruelty, or of adultery coupled with desertion without reasonable excuse, the husband and wife respectively shall be competent and compellable to give evidence of or relating to such cruelty or desertion — Competence of husband and wife to give evidence as to cruelty or desertion.

53. The whole or any part of any proceeding under this Act may be heard, if the Court thinks fit, with closed doors — Power to close doors.

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[1] The words 'or of reversal of judicial separation or for restitution of conjugal rights, or for d... shall be ... stamp of five rupees, and, and the words "in the first, second, ... by the Court fees Act, 1870 (7 of 1870) For ...

[2] ... annas and rep by the Court-fees Act, 1870 (7 of 1870) For court fee, see now Art 7 of Sch II to that Act

Power to adjourn. 54. The Court may from time to time adjourn the hearing of any petition under this Act, and may require further evidence thereon if it sees fit so to do.

Enforcement of and appeal from orders and decrees. 55. All decrees and orders made by the Court in any suit or proceeding under this Act shall be enforced and may be appealed[1] from, in the like manner as the decrees and orders of the Court made in the exercise of its original civil jurisdiction are enforced and may be appealed from under the laws, rules and orders for the time being in force:

Provided that there shall be no appeal from a decree of a District Judge for dissolution of marriage or of nullity of marriage: nor from the order of the High Court confirming or refusing to confirm such decree:

No appeals as to costs. Provided also that there shall be no appeal on the subject of costs only.

Appeal to Queen in Council. 56. Any person may appeal to Her Majesty in Council from any decree (other than a decree *nisi*) or order under this Act of a High Court made on appeal or otherwise,

and from any decree (other than a decree *nisi*) or order made in the exercise of original jurisdiction by Judges of a High Court or of any Division Court from which an appeal shall not lie to the High Court,

when the High Court declares that the case is a fit one for appeal to Her Majesty in Council.

XIII.—Re-marriage.

Liberty to parties to marry again. 57. When six months after the date of an order of a High Court confirming the decree for a dissolution of marriage made by a District Judge have expired,

or when six months after the date of any decree of a High Court dissolving a marriage have expired, and no appeal has been presented against such decree to the High Court in its appellate jurisdiction,

or when any such appeal has been dismissed,

or when in the result of any such appeal any marriage is declared to be dissolved,

but not sooner, it shall be lawful for the respective parties to the marriage to marry again, as if the prior marriage had been dissolved by death:

Provided that no appeal to Her Majesty in Council has been presented against any such order or decree.

When such appeal has been dismissed, or when in the result thereof the marriage is declared to be dissolved, but not sooner, it shall be lawful for the respective parties to the marriage to marry again as if the prior marriage had been dissolved by death.

English clergyman not compelled to solemnize marriages of 58. No clergyman in Holy Orders of the [2]* * Church of England [3]* * shall be compelled to solemnize the marriage of any person whose former marriage has been dissolved on the ground of his or her adultery, or

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[1] For court-fee on memorandum of appeal, *see* now Art. 7 of Sch. II to the Court Fees Act, 1870 (7 of 1870).
[2] The word "United" *rep.* by the Repealing Act, 1873 (12 of 1873).
[3] The words "and Ireland" *rep.* by *ibid.*

shall be liable to any suit, penalty or censure for solemnizing or refusing to solemnize the marriage of any such person. *persons divorced for adultery.*

59. When any minister of any church or chapel of the said [1]* * Church refuses to perform such marriage service between any persons who, but for such refusal, would be entitled to have the same service performed in such church or chapel, such minister shall permit any other minister in Holy Orders of the said Church entitled to officiate within the diocese in which such church or chapel is situate, to perform such marriage service in such church or chapel. *English minister refusing to perform ceremony to permit use of his church.*

XIV.—Miscellaneous.

60. Every decree for judicial separation or order to protect property obtained by a wife under this Act shall, until reversed or discharged, be deemed valid, so far as necessary, for the protection of any person dealing with the wife. *Decree for separation or protection order valid as to persons dealing with wife before reversal.*

No reversal, discharge or variation of such decree or order shall affect any rights or remedies which any person would otherwise have had in respect of any contracts or acts of the wife entered into or done between the dates of such decree or order and of the reversal, discharge or variation thereof.

All persons who in reliance on any such decree or order make any payment to, or permit any transfer or act to be made or done by, the wife who has obtained the same shall, notwithstanding such decree or order may then have been reversed, discharged or varied, or the separation of the wife from her husband may have ceased, or at some time since the making of the decree or order been discontinued, be protected and indemnified as if, at the time of such payment, transfer or other act, such decree or order were valid and still subsisting without variation, and the separation had not ceased or been discontinued, *Indemnity of persons making payment to wife without notice of reversal of decree or protection order.*

unless, at the time of the payment, transfer or other act, such persons had notice of the reversal, discharge or variation of the decree or order or of the cessation or discontinuance of the separation.

61. After this Act comes into operation, no person competent to present a petition under sections 2 and 10 shall maintain a suit for criminal conversation with his wife. *Bar of suit for criminal conversation.*

62. The High Court shall make such rules under this Act as it may from time to time consider expedient, and may from time to time alter and add to the same: *Power to make rules.*

Provided that such rules, alterations and additions are consistent with the provisions of this Act and the Code of Civil Procedure[2].

All such rules, alterations and additions shall be published in the [3][Official Gazette].

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[1] The word "United" rep. by the Repealing Act, 1873 (12 of 1873).
[2] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).
[3] Subs. by the A. O. for "local official Gazette".

SCHEDULE OF FORMS.

No. 1.—Petition by husband for a dissolution of marriage with damages against co-respondent, by reason of adultery.

(See sections 10 and 34.)

In the (High) Court of

To the Hon'ble Mr. Justice [*or* To the Judge of].

The day of 186 .

The petition of *A. B.*, of

Sheweth,

1. That your petitioner was on the day of , one thousand eight hundred and , lawfully married to *C. B.*, then *C. D.*, spinster, at .[a]

2. That from his said marriage, your petitioner lived and cohabited with his said wife at and at , in , and lastly at in , and that your petitioner and his said wife have had issue of their said marriage, *five* children, of whom *two* sons only survive, aged respectively *twelve* and *fourteen* years.

3. That during the *three* years immediately preceding the day of one thousand eight hundred and , *X. Y.* was constantly, with few exceptions, residing in the house of your petitioner at aforesaid, and that on divers occasions during the said period, the dates of which are unknown to your petitioner, the said *C. B.* in your petitioner's said house committed adultery with the said *X. Y.*

4. That no collusion or connivance exists between me and my said wife for the purpose of obtaining a dissolution of our said marriage or for any other purpose.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a dissolution of the said marriage, and that the said *X. Y.* do pay the sum of rupees 5,000 as damages by reason of his having committed adultery with your petitioner's said wife, such damages to be paid to your petitioner, or otherwise paid or applied as to this (Hon'ble) Court seems fit.

(Signed) *A. B.*[b]

Form of Verification.

I, *A. B.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

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[a] If the marriage was solemnized out of India, the adultery must be shown to have been committed in India.

[b] The petition must be signed by the petitioner.

No 2 —RESPONDENT'S STATEMENT IN ANSWER TO No 1

In the Court of the day of

Between *A B*, petitioner,

C B, respondent, and

X Y, co respondent

C B, the respondent, by *D E*, her attorney [*or* vakil], in answer to the petition of *A B*, says that she denies that she has on divers or any occasions committed adultery with *X Y*, as alleged in the third paragraph of the said petition

Wherefore the respondent prays that this (Hon ble) Court will reject the said petition

(Signed) *C B*

No 3 —CO RESPONDENT'S STATEMENT IN ANSWER TO No 1

In the (High) Court of

The day of

Between *A B*, petitioner,

C B, respondent, and

X Y, co respondent

X Y, the co respondent, in answer to the petition filed in this cause, saith that he denies that he committed adultery with the said *C B* as alleged in the said petition

Wherefore the said *X Y* prays that this (Hon ble) Court will reject the prayer of the said petitioner and order him to pay the costs of and incident to the said petition

(Signed) *X Y*

No 4 —PETITION FOR DECREE OF NULLITY OF MARRIAGE

(*See section 18*)

In the (High) Court of

To the Hon'ble Mr Justice [*or* To the Judge of].

The day of , 186 .

The petition of *A B*, falsely called *A D*,

SHEWETH,

1. That on the day of , one thousand eight hundred and

, your petitioner, then a spinster, eighteen years of age, was married in fact, though not in law, to *C. D.*, then a bachelor of about thirty years of age, at [*some place in India*].

2. That from the said day of , one thousand eight hundred and , until the month of , one thousand eight hundred and , your petitioner lived and cohabited with the said *C. D.*, at divers places, and particularly at aforesaid.

3. That the said *C. D.* has never consummated the said pretended marriage by carnal copulation.

4. That at the time of the celebration of your petitioner's said pretended marriage, the said *C. D.* was, by reason of his impotency or malformation, legally incompetent to enter into the contract of marriage.

5. That there is no collusion or connivance between her and the said *C. D.* with respect to the subject of this suit.

Your petitioner therefore prays that this (Hon'ble) Court will declare that the said marriage is null and void.

(Signed) *A. B.*

Form of Verification : see No. 1.

No. 5.—PETITION BY WIFE FOR JUDICIAL SEPARATION ON THE GROUND OF HER HUSBAND'S ADULTERY.

(*See section 22.*)

In the (High) Court of

To the Hon'ble Mr. Justice [*or* To the Judge of].

The day of 186 .

The petition of *C. B.*, of , the wife of *A. B.*

SHEWETH,

1. That on the day of , one thousand eight hundred and *sixty* , your petitioner, then *C. D.*, was lawfully married to *A. B.* at the Church of , in the .

2. That after her said marriage, your petitioner cohabited with the said *A. B.* at and at , and that your petitioner and her said husband have issue living of their said marriage, *three* children, to wit, *etc., etc.*[a]

3. That on divers occasions in or about the months of *August, September* and *October*, one thousand eight hundred and *sixty* , the said *A. B.*, at aforesaid, committed adultery with *E. F.*, who was then living in the

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[a] State the respective ages of the children.

service of the said *A B* and your petitioner at their said residence aforesaid

4. That on divers occasions in the months of *October, November* and *December*, one thousand eight hundred and *sixty* , the said *A B*, at aforesaid, committed adultery with *G H*, who was then living in the service of the said *A B* and your petitioner at their said residence aforesaid

5. That no collusion or connivance exists between your petitioner and the said *A B* with respect to the subject of the present suit

Your petitioner therefore prays that this (Hon'ble) Court will decree a judicial separation to your petitioner from her said husband by reason of his aforesaid adultery

(Signed) *C B* *

Form of Verification see No 1

No 6 —Statement in answer to No 5

In the (High) Court of

B against *B*

The day of .

The respondent, *A B*, by *W Y*, his attorney [*or* vakil], saith,—

1. That he denies that he committed adultery with *E F*, as in the third paragraph of the petition alleged

2. That the petitioner condoned the said adultery with *E F*, if any

3. That he denies that he committed adultery with *G H*, as in the fourth paragraph of the petition alleged

4. That the petitioner condoned the said adultery with *G H*, if any

Wherefore this respondent prays that this (Hon'ble) Court will reject the prayer of the said petition

(Signed) *A B*

No 7 —Statement in reply to No 6

In the (High) Court of

B against *B*

The day of .

The petitioner, *C B*, by her attorney [*or* vakil], says,—

1. That she denies that she condoned the said adultery of the respondent with *E F*, as in the second paragraph of the statement in answer alleged.

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* The petition must be signed by the petitioner

2. That even if she had condoned the said adultery, the same has been revived by the subsequent adultery of the respondent with *G. H.*, as set forth in the fourth paragraph of the petition.

(Signed) *C. B.*

No. 8.—Petition for a judicial separation by reason of cruelty.

(*See section 22.*)

In the (High) Court of

To the Hon'ble Mr. Justice [*or* To the Judge of].

The day of , 186 .

The petition of *A. B.* (wife of *C. B.*) of

Sheweth,

1. That on the day of , one thousand eight hundred and , your petitioner, then *A. D.*, spinster, was lawfully married to *C. B.*, at .

2. That from her said marriage, your petitioner lived and cohabited with her said husband at until the day of , one thousand eight hundred and , when your petitioner separated from her said husband as hereinafter more particularly mentioned, and that your petitioner and her said husband have had no issue of their said marriage.

3. That from and shortly after your petitioner's said marriage, the said *C. B.* habitually conducted himself towards your petitioner with great harshness and cruelty, frequently abusing her in the coarsest and most insulting language, and beating her with his fists, with a cane, or with some other weapon.

4. That on an evening in or about the month of one thousand eight hundred and , the said *C. B.* in the highway and opposite to the house in which your petitioner and the said *C B.* were then residing at aforesaid, endeavoured to knock your petitioner down, and was only prevented from so doing by the interference of *F. D.*, your petitioner's brother.

5. That subsequently on the same evening, the said *C. B.*, in his said house at aforesaid, struck your petitioner with his clenched fists a violent blow on her face.

6. That on one Friday night in the month of , one thousand eight hundred and , the said *C. B.*, in , without provocation, threw a knife at your petitioner, thereby inflicting a severe wound on her right hand.

7. That on the afternoon of the day of , one thousand eight hundred and , your petitioner, by reason of the great and

continued cruelty practised towards her by her said husband, with assistance withdrew from the house of her said husband to the house of her father at , that from and after the said day of , one thousand eight hundred and , your petitioner hath lived separate and apart from her said husband, and hath never returned to his house or to cohabitation with him

8 That there is no collusion or connivance between your petitioner and her said husband with respect to the subject of the present suit

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a judicial separation between your petitioner and the said *C B*, and also order that the said *C B* do pay the costs of and incident to these proceedings

(Signed) *A B*

Form of Verification see No 1

No 9 —Statement in answer to No 8

In the (High) Court of

The day of .

Between *A B*, petitioner, and *C B*, respondent

C B, the respondent, in answer to the petition filed in this cause, by *W J*, his attorney [or vakil], saith that he denies that he has been guilty of cruelty towards the said *A B*, as alleged in the said petition

(Signed) C B

No 10 —Petition for reversal of decree of separation

(See section 24)

In the (High) Court of

To the Hon ble Mr Justice [*or* To the Judge of]

The day of , 186

The petition of *A B*, of .

Sheweth,

1. That your petitioner was on the day of , lawfully married to

2 That on the day of , this (Hon'ble) Court, at the

petition of , pronounced a decree affecting the petitioner to the effect following, to wit,—

[Here set out the decree.]

3. That such decree was obtained in the absence of your petitioner, who was then residing at

[State facts tending to show that the petitioner did not know of the proceedings; and, further, that had he known he might have offered a sufficient defence.]

or

That there was reasonable ground for your petitioner leaving his said wife or that his said wife

[Here state any legal grounds justifying the petitioner's separation from his wife.]

Your petitioner, therefore, prays that this (Hon'ble) Court will reverse the said decree.

(Signed) *A. B.*

Form of Verification : see No. 1.

No. 11.—Petition for Protection-order.

(See section 27.)

In the (High) Court of

To the Hon'ble Mr. Justice [*or* To the Judge of].

The day of , 186 .

The petition of *C. B.*, of , the wife of *A. B.*

Sheweth,

That on the day of she was lawfully married to *A. B.* at .

That she lived and cohabited with the said *A. B.* for years at , and also at , and had had children, issue of her said marriage, of whom are now living with the applicant, and wholly dependent upon her earnings.

That on or about , the said *A. B.*, without any reasonable cause, deserted the applicant, and hath ever since remained separate and apart from her.

That since the desertion of her said husband, the applicant hath maintained herself by her own industry [*or on her own property, as the case may be*] and hath thereby and otherwise acquired certain property consisting of [*here state generally the nature of the property*]

Wherefore she prays an order for the protection of her earnings and property acquired since the said day of , from the said *A B*, and from all creditors and persons claiming under him

(Signed) *C B*]

NO 12 —PETITION FOR ALIMONY PENDING THE SUIT

(*See section 36*)

In the (High) Court of

B against *B*

To the Hon'ble Mr Justice [*or* To the Judge of]

The day of , 186

The petition of *C B*, the lawful wife of *A B*

SHEWETH,

1 That the said *A B* has for some years carried on the business of , at , and from such business derives the net annual income of from Rs 4,000 to 5,000

2 That the said *A B* is possessed of plate, furniture, linen and other effects at his said house aforesaid, all of which he acquired in right of your petitioner as his wife, or purchased with money he acquired through her, of the value of Rs 10,000

3 That the said *A B* is entitled, under the will of his father, subject to the life interest of his mother therein, to property of the value of Rs 5,000 or some other considerable amount [a]

Your petitioner, therefore, prays that this (Hon'ble) Court will decree such sum or sums of money by way of alimony, pending the suit, as to this (Hon'ble) Court may seem meet

(Signed) *C B.*

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[a] The petitioner should state her husband's income as accurately as possible

petition of , pronounced a decree affecting the petitioner to the effect following, to wit,—

[Here set out the decree.]

3. That such decree was obtained in the absence of your petitioner, who was then residing at

[State facts tending to show that the petitioner did not know of the proceedings; and, further, that had he known he might have offered a sufficient defence,]

or

That there was reasonable ground for your petitioner leaving his said wife or that his said wife

[Here state any legal grounds justifying the petitioner's separation from his wife.]

Your petitioner, therefore, prays that this (Hon'ble) Court will reverse the said decree.

(Signed) *A. B.*

Form of Verification : see No. 1.

No. 11.—Petition for Protection-order.

(See section 27.)

In the (High) Court of

To the Hon'ble Mr. Justice [*or* To the Judge of].

The day of , 186 .

The petition of *C. B.*, of , the wife of *A. B.*

Shewetii,

That on the day of she was lawfully married to *A. B.* at .

That she lived and cohabited with the said *A. B.* for years at , and also at , and had had children, issue of her said marriage, of whom are now living with the applicant, and wholly dependent upon her earnings.

That on or about , the said *A. B.*, without any reasonable cause, deserted the applicant, and hath ever since remained separate and apart from her.

That since the desertion of her said husband, the applicant hath maintained herself by her own industry [*or* on her own property, *as the case may be*] and hath thereby and otherwise acquired certain property consisting of *here state generally the nature of the property*]

Wherefore she prays an order for the protection of her earnings and property acquired since the said day of , from the said *A B*, and from all creditors and persons claiming under him

(Signed) *C. B*]

No 12 —PETITION FOR ALIMONY PENDING THE SUIT

(*See section 36*)

In the (High) Court of

B against *B*

To the Hon'ble Mr Justice [*or* To the Judge of]

The day of , 186

The petition of *C B*, the lawful wife of *A B*

SHEWETH,

1 That the said *A B* has for some years carried on the business of , at , and from such business derives the net annual income of from Rs 4,000 to 5,000

2 That the said *A B* is possessed of plate, furniture, linen and other effects at his said house aforesaid, all of which he acquired in right of your petitioner as his wife, or purchased with money he acquired through her, of the value of Rs 10,000

3 That the said *A B* is entitled, under the will of his father, subject to the life interest of his mother therein, to property of the value of Rs 5,000 or some other considerable amount [a]

Your petitioner, therefore, prays that this (Hon'ble) Court will decree such sum or sums of money by way of alimony, pending the suit, as to this (Hon'ble) Court may seem meet

(Signed) *C B*

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[a] The petitioner should state her husband's income as accurately as possible

Form of Verification : see No. 1.

No. 13.—Statement in answer to No. 12.

In the (High) Court of

B. against *B.*

A. B., of , the above-named respondent, in answer to the petition for alimony, pending the suit of *C. B.*, says—

1. In answer to the first paragraph of the said petition, I say that I have for the last *three* years carried on the business of , at , and that, from such business, I have derived a nett annual income of Rs. 900, but less than Rs. 1,000.

2. In answer to the second paragraph of the said petition, I say that I am possessed of plate, furniture, linen and other chattels and effects at my said house aforesaid, of the value of Rs. 7,000, but as I verily believe of no larger value. And I say that a portion of the said plate, furniture and other chattels and effects of the value of Rs. 1,500, belonged to my said wife before our marriage, but the remaining portions thereof I have since purchased with my own moneys. And I say that, save as hereinbefore set forth, I am not possessed of the plate and other effects as alleged in the said paragraph in the said petition, and that I did not acquire the same as in the said petition also mentioned.

3. I admit that I am entitled under the will of my father, subject to the life-interest of my mother therein, to property of the value of Rs. 5,000, that is to say, I shall be entitled under my said father's will, upon the death of my mother, to a legacy of Rs. 7,000, out of which I shall have to pay to my father's executors the sum of Rs. 2,000, the amount of a debt owing by me to his estate, and upon which debt I am now paying interest at the rate of five per cent. per annum.

4. And, in further answer to the said petition, I say that I have no income whatever except that derived from my aforesaid business, that such income, since my said wife left me, which she did on the day of last, has been considerably diminished, and that such diminution is likely to continue. And I say that out of my said income, I have to pay the annual sum of Rs. 100 for such interest as aforesaid to my late father's executors, and also to support myself and my two eldest children.

5. And, in further answer to the said petition, I say that, when my wife left my dwelling-house on the day of last, she took with her, and has ever since withheld and still withholds from me, plate, watches and other effects in the second paragraph of this my answer mentioned, of the value of, as I verily believe, Rs. 800 at the least; and I also say that, within

five days of her departure from my house as aforesaid, my said wife received bills due to me from certain lodgers of mine, amounting in the aggregate to Rs , and that she has ever since withheld and still withholds from me the same sum

(Signed) *A B*

No 14 —UNDERTAKING BY MINOR'S NEXT FRIEND TO BE ANSWERABLE FOR RESPONDENT'S COSTS

(*See section 49*)

In the (High) Court of

I, the undersigned, *A B*, of , being the next friend of *C D*, who is a minor, and who is desirous of filing a petition in this Court, under the Indian Divorce Act, against *D D* of , hereby undertake to be responsible for the costs of the said *D D* in such suit, and that, if the said *C D* fail to pay to the said *D D* when and in such manner as the Court shall order all such costs of such suit as the Court shall direct him (*or* her) to pay to the said *D D*, I will forthwith pay the same to the proper officer of this Court

Dated this day of , 186 .

(Signed) *A B*

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[1]ACT NO. XIII OF 1869.

[*19th March, 1869*]

An Act further to amend the Procedure of the High Court of Judicature for the North-Western Provinces

WHEREAS it is expedient to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William, it is hereby enacted as follows Preamble.

1. [*Trial of Natives and European British subjects conjointly*] *Rep by the Advocate General's (Powers) Act, 1875* (X *of 1875*)

2. [*Record of evidence*] *Rep by ibid*

3. Whenever any petition, application or motion is made in any matter coming before the said Court in the exercise of its civil [2]* * or other Power to award cost on petition etc

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1868 p 1681, and for Proceedings in Council, *see ibid*, Supplement, pp 1108 and 1109, and *ibid*, 1869, Supplement, p 464

[2] The word "Criminal" in s 3 is omitted as so much of both ss 3 and 4 as relates to criminal jurisdiction was repealed by the High Court's Criminal Procedure Act, 1875 (10 of 1875), s. 2

jurisdiction, the Court shall have power to award and apportion costs in any manner it may think fit.

Penalty for making false statements in support of petitions, etc.

[1]4. Whenever the Court shall require the statements in support of any such petition, application or motion to be verified by a declaration in writing, the person making such verification shall, if any such statement is false, and if he either knows or believes it to be false, or does not believe it to be true, be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

THE BOMBAY CIVIL COURTS ACT, 1869.

CONTENTS.

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[1] The word "Criminal" in s. 3 is omitted as so much of both ss. 3 and 4 as relates to criminal jurisdiction was repealed by the High Court's Criminal Procedure Act, 1875 (10 of 1875), s. 2.

PART IV

JOINT JUDGES

PART V

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PART VI

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PART VII.

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PART VIII.

MINISTERIAL OFFICERS.

PART IX.

MISCELLANEOUS.

[1]ACT NO. XIV OF 1869.

[*19th March, 1869.*]

An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in the Presidency of Bombay.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the district and other subordinate Civil Courts in the Presidency of Bombay; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be called the Bombay Civil Courts Act, 1869, and

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1869, p. 100; and for Proceedings in Council, *see ibid*, 1869, Supplement, pp. 59, 180, 185, 336, 421 and 464.

extends only to the territories (other than Sindh) under the Government of the Governor of Bombay in Council in which the [1]Code of Civil Procedure is now in force Exter

But the [2][Provincial Government] may, by notification in the [3][Official Gazette] extend this Act to [4][any [5]other of the said territories] in which the said [1]Code is not in force, or to [5]Sindh

2. [*Repeal of enactments*] *Rep by the Repealing Act, 1870 (XIV of 1870)*

PART II

Districts and Sadr Stations

3. The [2][Provincial Government] may from time to time, by a notification in the [3][Official Gazette], alter the limits of existing zilas (which shall hereafter be called districts) and create new districts for the purposes of this Act Alter and of Di

4 The [2][Provincial Government] may also from time to time, by notification in the [3][Official Gazette] alter the position of the sadr station in any district, and fix the position of the sadr station in any new district Posit sadr

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PART III

District Courts

5. There shall be in each district a District Court presided over by a Judge to be called the District Judge [6] * * * * Dist Judg

6 The District Judge shall ordinarily hold the District Court at the sadr station in his district, but may, with the previous sanction of the High Court, hold it elsewhere within the district Situa Dist Cour

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[1] *See* now the Code of Civil Procedure 1908 (Act 5 of 1908)

[2] Subs by the A O for Governor of Bombay in Council

[3] S b b [illegible]

[4] [illegible]

[5] [illegible]

The Act has been extended to certain villages ceded and surrendered by the Nizam of Hyderabad and the Chief of Akalkot respect vely [illegible]

[6] The words The [illegible] rep by [illegible] Governc [illegible] removec [illegible] *see* now [illegible]

Original jurisdiction of District Court.

7. The District Court shall be the principal Court of original civil jurisdiction in the district, within the meaning of the [1]Code of Civil Procedure.

Appellate jurisdiction of District Court.

8. Except as provided in sections 16, 17 and 26, the District Court shall be the Court of Appeal from all decrees and orders passed by the subordinate Courts from which an appeal lies under any law for the time being in force.

Control and inspection of Court.

9. The District Judge shall have general control over all the Civil Courts and their establishments within the district, and it shall be his duty to inspect, or to cause one of his assistants to inspect, the proceedings of all the Courts subordinate to him, and to give such directions with respect to matters not provided for by law as he may think necessary.

The District Judge shall also refer to the High Court all such matters as appear to him to require that a rule of that Court should be made thereon.

Writs and orders.

10. The District Judge shall obey all writs, orders or processes issued to him by the High Court, and shall make such returns or reports thereto under his signature and the seal of the Court as the exigencies of the case require.

Reports and returns.

He shall further furnish such reports and returns and copies of proceedings as may be called for by the High Court or the [2][Provincial Government].

Seal of District Judge.

11. The District Judge shall use a circular seal, two inches in diameter, which shall bear thereon the Royal Arms, with the following inscription in English and the principal language of the district:—" District Court of ."

PART IV.

JOINT JUDGES.

Power to

12. The [2][Provincial Government] may [3]* * * * appoint in any district a Joint Judge who shall be invested with co-extensive powers and a concurrent jurisdiction with the District Judge, except that he shall not keep a file of civil suits and shall transact such civil business only as he may receive from the District Judge, or as may have been referred to the Joint Judge by order of the High Court.

[4]* * * * * * *

Enactments applied to Joint Judge, Joint Judges seal.

13. All Regulations and Acts now or hereafter in force and applying to a District Judge shall be deemed to apply also to the Joint Judge; and the seal of the Joint Judge shall be the same as is used by the District Judge.

[1] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

[2] Subs. by the A. O. for " Governor of Bombay in Council".

[3] The words " with the previous sanction of the G. G. of India in C." rep. by the Bombay Repealing and Amending Act, 1910 (Bom. Act 1 of 1910), s. 3 and Sch. II.

[4] The second clause of section 12 rep. by *ibid.*

(Part V —Assistant Judges)

PART V.

Assistant Judges

14. The [1][Provincial Government] [2] * * * * may appoint one or more Assistants to the District Judge, [3]* * * * * * Power to appoint Assistant Judges.

15. An Assistant Judge shall ordinarily hold his Court at the same place as the District Judge, but he may hold his Court elsewhere within the district, whenever the District Judge shall, with the previous sanction of the High Court, direct him so to do. Situation of Assistant Judge's Court.

16. The District Judge may refer to any Assistant Judge subordinate to him original suits of which the subject matter does not amount to ten thousand rupees in amount or value, [4][applications or references under special Acts,] and miscellaneous applications not being of the nature of appeals Original jurisdiction of Assistant Judge

The Assistant Judge shall have jurisdiction to try such suits and to dispose of such applications [4][or references]

Where the Assistant Judge's decrees and orders in such cases are appealable, the appeal shall lie to the District Judge or to the High Court according as the amount or value of the subject-matter does not exceed or exceeds five thousand rupees

[5] * * * * * *

17. The [1][Provincial Government] may, by notification in the [6][Official Gazette], empower any Assistant Judge to try such appeals from the decrees and orders of the subordinate Courts as would lie to the District Judge and as may be referred by him to the Assistant Judge Appellate jurisdiction of Assistant Judge

Decrees and orders passed under this section by an Assistant Judge shall have the same force and shall be subject to the same rules as regards procedure and appeals as decrees and orders passed by the District Judge

18. A person filling the office of Assistant Judge, on whom the power of hearing appeals has once been conferred under section 17, shall continue to have this power so long and so often as he may fill the office of Assistant Judge, without reference to the district in which he may be employed : Continuance of Assistant Judge's appellate jurisdiction.

Provided that the [1][Provincial Government] may, by notification in the [6][Official Gazette], at any time withdraw such power

19. The [1][Provincial Government] may, by notification in the [6][Official Gazette], invest an Assistant Judge with all or any of the powers of a District Power to invest Assistant Judge with

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[1] Subs by the A O for "Governor of Bombay in Council"

[2] The words "under the general control of the G G of India in C" rep by the A O

[3] The words "and may suspend or remove from his appointment any Assistant so appointed" rep by the A O [illegible]
Assistant Judges under th[illegible]

[4] Ins by the Bombay [illegible]

[5] The last paragraph [illegible]
Guardians and Wards Act, 1890 (8 of 1890)

[6] Subs by the A O for Govt Gazette

powers of District Judge.

Judge within a particular part of a district, and may, by like notification, from time to time determine and alter the limits of such part.

The jurisdiction of an Assistant Judge so invested shall *pro tanto* exclude the jurisdiction of the District Judge from within the said limits.

Every Assistant Judge so invested shall ordinarily hold his Court at such place within the local limits of his jurisdiction as may be determined by the [1][Provincial Government], and may, with the previous sanction of the High Court, hold it at any other place within such limits.

Assistant Judge to use seal of District Judge.

20. Every Assistant Judge shall use the seal of the District Judge to whom he is Assistant.

PART VI.

SUBORDINATE JUDGES.

Number of Civil Courts.

21. There shall be in each district so many Civil Courts subordinate to the District Court as the [1][Provincial Government] [2] * * * shall from time to time direct:

[3][Provided that for special reasons it shall be lawful for the [1][Provincial Government] at any time to close temporarily any such Subordinate Court.]

Appointment of Subordinate Judges.

22. The Judges of such Subordinate Courts shall be appointed by the [1][Provincial Government], and shall be called Subordinate Judges.

[4] * * * * * *

Power to fix local limits of jurisdiction of Subordinate Judges.

[5][**22A.** The [1][Provincial Government] may, by notification in the official Gazette, fix, and, by a like notification, from time to time, alter the local limits of the ordinary jurisdiction of the Subordinate Judges.]

Situation of Subordinate Courts.

23. The Subordinate Judges shall hold their Courts at such place or places as the [1][Provincial Government], may from time to time appoint within the local limits of their respective jurisdictions:

[6] [Provided that for special reasons it shall be lawful for the [1][Provincial Government] to order that a Subordinate Judge shall hold his Court at a place outside the local limits of his jurisdiction.]

Wherever more than one such place is appointed, the District Judge shall, subject to the control of the High Court, fix the days on which the Subordinate Judge shall hold his Court at each of such places, and the Subordinate Judge

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[1] Subs. by the A. O. for " Governor of Bombay in Council."

[2] The words " acting under the general control of the G. G. of India in C." rep. by the A. O.

[3] Ins. by the Bombay Civil Courts Amendment Act, 1900 (Bom. Act 1 of 1900), s. 3.

[4] The second and third paragraphs relating to the qualifications of Subordinate Judges. rep. by the A. O. *see* now the G. of I. Act, 1935 (26 Geo. 5, Ch. 2), s. 255.

[5] Ins. by the Bombay Civil Courts Act, 1880 (9 of 1880), s. 2.

[6] Ins. by the Bombay Civil Courts Amendment Act, 1900 (Bom. Act 1 of 1900), s. 4.

shall cause such days to be duly notified throughout the local limits of his jurisdiction

The same person may be the Judge of more than one subordinate Court [1][and may dispose of the Civil business of any one of his Courts at the head-quarters of any other of his Courts,] and in such cases the District Judge shall, subject to the control of the High Court, prescribe rules for regulating the time during which the Subordinate Judge shall sit in each Court

[2][For the purpose of assisting the Judge of any subordinate Court in the disposal of the civil business on his file, [3][the High Court may appoint to such Court from the members of the Subordinate Civil Judicial Service of the Province] one or more Joint Subordinate Judges, or the District Judge may, with the previous sanction of the High Court, depute to such Court the Judge of another subordinate Court within the district A Subordinate Judge thus appointed or deputed to assist in the Court of another Subordinate Judge shall dispose of such civil business within the limits of his pecuniary jurisdiction as may, subject to the control of the District Judge, be referred to him by the Judge of such Court [4][He may also dispose of the civil business of his Court at the place of his deputation subject to the general or special orders of the High Court in this behalf] Appointment of Joint Subordinate Judges

For the purposes of this section the provisions of the Act applicable to Subordinate Judges shall be, and shall be deemed always to have been applicable to Joint Subordinate Judges Provided that no such Joint Subordinate Judge shall hear and determine any suit instituted under section 4 of the Dekkhan Agriculturists' Relief Act, 1879, unless the value of the said suit falls within the limits of the pecuniary jurisdiction conferred on him by that Act] Provisions applicable to Joint Subordinate Judges

I of

24. The Subordinate Judges shall be of two classes Classes of Subordinate Judges

The jurisdiction of a Subordinate Judge of the first class extends to all original suits and proceedings of a civil nature Jurisdiction of Subordinate Judge of first class.

The jurisdiction of a Subordinate Judge of the second class extends to all original suits and proceedings of a civil nature wherein the subject-matter does not exceed in amount or value five thousand rupees Jurisdiction of Subordinate Judge of second class

[5][Provided that the [6][Provincial Government] may increase the limit of five thousand rupees to seven thousand and five hundred rupees in the case

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[1] Ins by the Bombay Civil Courts and the Sind Courts (Amendment) Act, 1930 (Bom Act 7 of 1930) s 2

[2] These two paragraphs were subs for the original last paragraph by the Bombay Civil Courts Amendment Act, 1900 (Bom Act 1 of 1900) s 4

[3] Subs by the A O for "the Governor of Bombay in Council may appoint to such Court"

[4] Ins by the Bombay Civil Courts and the Sind Courts (Amendment) Act, 1930 (Bom Act 7 of 1930) s 2

[5] Ins by ibid s 3

[6] Subs by the A O for G in C

of any Subordinate Judge of the second class, of not less than ten years' standing and specially recommended in this behalf by the High Court. A Subordinate Judge so empowered shall continue to exercise this power so long and as often as he may fill the office of a Subordinate Judge of the second class without reference to the District in which he may be employed, unless the powers are withdrawn by [1][the Provincial Government].

Special jurisdiction of Subordinate Judge of first class.

25. A Subordinate Judge of the first class, in addition to his ordinary jurisdiction, shall exercise a special jurisdiction in respect of such suits and proceedings of a civil nature, [2] * * * * as may arise within the local jurisdiction of the Courts in the district presided over by Subordinate Judges of the second class [3][and wherein the subject-matter exceeds the pecuniary jurisdiction of the Subordinate Judge of the second class as defined by section 24].

In districts to which more than one Subordinate Judge of the first class have been appointed, the District Judge, subject to the orders of the High Court, shall assign to each the local limits within which his said special jurisdiction is to be exercised.

Appeals from his decision.

26. In all suits decided by a Subordinate Judge [4]* * * of which the amount or value of the subject-matter exceeds five thousand rupees, the appeal from his decision shall be direct to the High Court.

Appellate jurisdiction of Subordinate Judge of first class or Judge of Court of Small Causes.

27. The [5][Provincial Government] may invest any Subordinate Judge of the first class [6][or any Judge of the Court of Small Causes established under the Provincial Small Cause Courts Act, 1887, in any place to which this section IX extends] with power to hear appeals from such decrees and orders of Subordinate Courts as may be referred to him by the Judge of the district.

Decrees and orders so passed in appeal by a Subordinate Judge of the first class [6][or a Judge of a Court of Small Causes] shall have the same force as if passed by a District Judge.

[7][A Subordinate Judge of the first class or a Judge of a Court of Small Causes, on whom the Power of hearing appeals has once been conferred under this section, shall continue to have this power so long and so often as he may fill the office of Subordinate Judge of the first class or Judge of a Court of Small Causes respectively, without reference to the district in which he may be employed: Provided that the [5][Provincial Government] may, by notification in the [8][Official Gazette], at any time withdraw such power.]

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[1] Subs. by the A. O. for " Govt."

[2] The words " wherein the subject matter exceeds five thousand rupees in amount or value " rep. by Bom. Act 7 of 1930, s. 4.

[3] Ins. by *ibid.*

[4] The words " of the first class in the exercise of his ordinary and special original jurisdiction " rep. by the Bombay Civil Courts (Amendment) Act, 1930 (Bom. Act 28 of 1930), s. 2.

[5] Subs. by the A. O. for " Governor of Bombay in Council ".

[6] Ins. by the Bombay Civil Courts Amendment Act, 1900 (Bom. Act 1 of 1900), s. 5.

[7] Subs. by *ibid.*, for the original paragraph.

[8] Subs. by the A. O. for " Govt. Gazette ".

(*Part VI —Subordinate Judges*)

Power to invest Subordinate Judges with small cause powers.

28. [1][The [2][Provincial Government] may invest, within such [3]local limits as [4][it] shall from time to time appoint, any Subordinate Judge with the jurisdiction of a Court of Small Causes for the trial of suits cognizable by such Courts up to such amount as he may deem proper, not exceeding in the case of any Subordinate Judge of the first class one thousand rupees, and in the case of any Subordinate Judge of the second class [5][three hundred] rupees.]

The [2][Provincial Government] may, whenever [4][it] thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested

Power to invest Subordinate Judges with jurisdiction under certain Acts

[6][**28A.** (*1*) The High Court may by general or special order invest any Subordinate Judge, within such local limits and subject to such pecuniary limitation as may be prescribed in such order, with all or any of the powers of a District Judge or a District Court as the case may be under the Indian Succes-
65. sion Act, 1865,[7] the Probate and Administration Act, 1881,[7] or paragraph 5
81.
08. of Schedule III to the Code of Civil Procedure, 1908

(*2*) Every order made by a Subordinate Judge by virtue of the powers conferred upon him under sub-section (*1*) shall be subject to appeal to the High Court or the District Court according as the amount or value of the subject matter exceeds or does not exceed five thousand rupees

(*3*) Every order of the District Judge passed on appeal under sub-section (*2*) from the order of a Subordinate Judge shall be subject to an appeal to the High Court *under the rules contained in the Code of Civil Procedure applicable* to appeals from appellate decrees]

Seal of Subordinate Judge.

29. Each Subordinate Judge shall use a seal one inch and a half in diameter, bearing the Royal Crown with the following inscription in English and the principal language of the district —" Subordinate Judge of "

30, 31. [*First Subordinate Judges Pending proceedings*] *Rep by the Repealing Act, 1876* (*XII of 1876*)

Government suits.

[8][**32.** (*1*) No subordinate court other than the court of a subordinate judge of the first class and no court of Small Causes shall receive or register any suit in which [9] [the Crown] or any officer of [10][the Crown] in his official capacity is a party.

(*2*) In every such case the plaintiff shall be referred to the court of the Subordinate Judge of the first class and such suit shall be instituted only in the court of the subordinate judge of the first class and shall be heard by such

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Relief Act,

. 1930 (Bom.

3), s. 2 for

subordinate judge, subject to the provisions of section 24 of the Code of Civil Procedure, 1908.

(*3*) Nothing in this section shall be deemed to apply to a suit against the administration of a Government railway: or to apply to any suit merely because an officer of [1][the Crown] is a party thereto, in his capacity of—

(*a*) member of a local authority,

(*b*) curator, guardian, manager or representative of a private person or estate in virtue of an appointment, delegation, declaration or exercise of powers under:—

(i) Order 32, rule 4 (*4*), of the Code of Civil Procedure, 1908;

(ii) section 69 or 71 of the Indian Lunacy Act, 1912;

(iii) section 7, 18 or 42 of the Guardians and Wards Act, 1890;

(iv) section 1 or 17 of the Ahmedabad Talukdars' Act, 1862;

(v) section 3, 19 (*1*), 19 (*2*), 20, 22 (*1*) or 41 (*1*) of the Bombay Court of Wards Act, 1905."]

33. [*Commission of Inquiry into alleged misconduct.*] *Rep. by the A. O.*

[2]**34.** [*Suspension of Subordinate Judges by High Court; by District Judge. Saving of power of Government to suspend or dismiss.*] *Rep. by the A. O.*

PART VII.

TEMPORARY VACANCIES.

Temporary Vacancy of Office of District Judge.

35. In the event of the death of the District Judge or of his being prevented from performing his duties by illness or other casualty, or of his absence from his district on leave, the first in rank of the Assistant Judges in the district, or in the absence from the district of an Assistant Judge the first in rank of the Subordinate Judges, shall assume charge of the District Court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a District Judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes, return of writs and the like, and shall be designated Assistant Judge or Subordinate Judge, as the case may be, in charge of the district, and shall continue in such charge until the office of District Judge may be resumed or assumed by an officer duly appointed thereto.

Delegation of powers of District Judge.

36. Any District Judge leaving the sadr station and proceeding on duty to any place within his district may delegate to an Assistant Judge, or in the absence of an Assistant Judge to a Subordinate Judge at the sadr station, the power of performing such of the duties enumerated in section 35 as may be

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[1] Subs. by the A. O. for "Govt.".

[2] The removal and suspension of Subordinate Judges are now governed by rules made, or deemed to be made, under s. 241 (2) (*b*) of the G. of I. Act, 1935 (26 Geo. 5, ch. 2). *See*, however, para. 15 (2) of the G. of I. (Commencement and Transitory Provisions) Order, 1936.

emergent, and such officer shall be designated Assistant or Subordinate Judge, as the case may be, in charge of the sadr station

37. In the event of the death, suspension or temporary absence of any Subordinate Judge, the District Judge may empower the Judge of any subordinate Court of the same district to perform the duties of the Judge of the vacated subordinate Court, either at the place of such Court or of his own Court, but in every such case the registers and records of the two Courts shall be kept distinct — Temporary vacancy of office of Subordinate Judge

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PART VIII

Ministerial Officers

38 [1][*Appointment, etc , of ministerial officers*] *Rep by the A O*

39 The duties of [2][the ministerial officers of the Civil Courts] shall be regulated by such rules as the High Court may from time to time prescribe — Duties of ministerial officers

40. [3][There may be appointed to any Civil Court under this Act] a clerk of the Court, who, in addition to such duties as may from time to time be prescribed by the High Court, may receive and register plaints, and shall refer such as he may consider should be refused for the orders of the Judge of the Court, and may sign all processes, and authenticate copies of papers — Power to appoint clerks of the Courts

[4]**40A.** [*Power to transfer clerk of the Court or ministerial officer*] *Rep by the A O*

PART IX

Miscellaneous

41. The proceedings of each Civil Court shall be kept and recorded according to such rules as the High Court may from time to time prescribe The High Court shall also lay down rules under which copies of papers may be granted — Rules for keeping proceedings.

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1 S [illegible]

2 [illegible]

3 [illegible] eneral control of [the Governor of Bom[illegible] limits of his juris[illegible] The Governor [illegible] Bombay Civil Co[illegible] see now s 241 (1)

4 Section 40A was ins by the Bombay Civil Courts Amendment Act, 1900 (Bom 1 of 1900) s 8 The power to transfer is now governed by rules made or deemed to be made under s 241 (2) (b) of the G of I Act 1935 (26 Geo 5 ch 2)

(*Part IX.—Miscellaneous.*)

Licensed petition-writers.

[1][**41A.** (*1*) The High Court may, from time to time, make rules consistent with this Act and any other enactment for the time being in force—

(*a*) declaring what persons shall be permitted to act as petition-writers in the Courts subordinate to it;

(*b*) regulating the issue of licenses to such persons, the conduct of business by them, and the scale of fees to be charged by them; and

(*c*) providing a penalty of fine not exceeding fifty rupees for the breach of any of the rules so made, and determining the authority by which such breaches of the rules shall be investigated and the penalties imposed.

(*2*) Every fine imposed under clause (*c*) of sub-section (*1*) shall be recoverable as if it were a fine imposed by a Magistrate in the exercise of his ordinary jurisdiction.]

Fees for Process.

42. The High Court shall from time to time, with the sanction of the [2][Provincial Government], prescribe and regulate the fees to be taken for any process issued by any Court the constitution of which is declared by this Act, or by any officer of such Court.

Tables of the fees so prescribed shall be published in the [3][Official Gazette].

Sittings of Courts.

43. The District and Subordinate Courts shall sit from day to day except on Sundays, New Year's Day, Good Friday, Christmas Day and Her Majesty's Birthday, and such other days as may be sanctioned for each or every district by the High Court.

Vacation.

The High Court may also permit the Civil Courts under its control to adjourn for a period or periods not exceeding in the whole six weeks in each year.

THE SCHEDULE.—[*Enactments repealed.*] *Rep. by the Repealing Act, 1870 (XIV of 1870.)*

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[1] Ins. by the Bombay Civil Courts Amendment Act, 1900 (Bom. 1 of 1900).

[2] Subs. by the A. O. for "Governor of Bombay in Council".

[3] Subs. by the A. O. for "Govt. Gazette".

[1][THE UNCLAIMED DEPOSITS ACT, 1870]

ACT NO. V OF 1870

[4th February, 1870]

An Act to enable the High Courts at the Presidency-towns to deal with cost of petitions for certain moneys transferred to Government.

WHEREAS the High Courts of Judicature at Fort William, Madras and Bombay have no power to deal with the costs of petitions under section 4 of Act No XXV of 1866 (*to transfer to the Government of India certain securities and moneys deposited in the High Courts of Judicature at Fort William, Madras and Bombay* [2]* * * * *) [3]* * * for payment of certain securities, moneys or proceeds transferred to Government, Preamble

And whereas it is expedient to confer such power upon the said High Courts,

It is hereby enacted as follows —

1. Whenever any of the said Courts shall make an order on any such petition, the Court may direct by whom the whole or any part of the costs of each party are to be paid Power to direct by whom costs are to be paid

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THE COURT-FEES ACT, 1870.

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[1] [illegible] 5, for Pro[illegible] pp 53, 57, [illegible] and 150

[2] The words " and in the Supreme Court of the Straits Settlements and the proceeds of certain estates in the charge of the Administrator General of Bengal " rep by the Repealing Act, 1874 (16 of 1874)

[3] The words " or under s 60 of the Administrator General s Act, 1867 " are omitted as the Administrator General s Act, 1867 (24 of 1867) and this Act so far as it relates to the Administrator General, were rep by the Administrator General s Act, 1874 (2 of 1874)

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THE COURT-FEES ACT, 1870.

[*11th March, 1870.*]

CHAPTER I.

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It extends to the whole of British India;

Commencement of Act.

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[2][1A. In this Act "the Appropriate Government" means, in relation to fees or stamps relating to documents presented or to be presented before any officer serving under the Central Government, that Government, and in relation to any other fees or stamps, the Provincial Government.]

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nent,
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913),
s. 3,
Panth Piploda, by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2; and
Angul District, by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.
p. 510;
the Scheduled Districts in Ganjam and Vizagapatam, *see* Gazette of India, 1898, Pt. I,
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505.
the Kolhan in the
ss. 5 and 5A of that
Hills, the Garo Hills,
the Kachar District,
mpur frontier-tract,
zette, 1930, Pt. II,
p. 700.
in co
amen
35.

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[11th March, 1870]

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...ments, *see* the Chronological Tables of the Indian Statutes, Vol I.

It has been declared to be in force in—

Santhal Parganas, by the Santhal Parganas Settlement Regulation (3 of 1872), s 3;

British Baluchistan, by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s 3,

[illegible]

the Scheduled Districts in Ganjam and Vizagapatam, *see* Gazette of India, 1898, Pt I, p 869,

the Tarai of the Province of Agra, *see* Gazette of India, 1876, Pt I, p 505

It has been extended by notification under s 5 of the same Act to the Kolhan in the [illegible] and under ss 5 and 5A of that [illegible] d Jaintia Hills, the Garo Hills, [illegible] division of the Kachar District, [illegible] the Lakhimpur frontier tract, [illegible] Assam Gazette, 1930, Pt. II, [illegible]

It [illegible] ement, and in cert[illegible] 72), s 8, as amenc[illegible] 27, 34 and

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[1] For the Statement of Objects and Reasons, *see* Gazette of India, 1869, Pt V, p. 57; for Proceedings in Council, *see ibid*, 1869, Supplement, pp 1179 and 1452, *ibid*, 1870, Supplement, pp 52, 378, 421, 427 and 434

The Act has been locally amended in several Provinces For a list of the amending enactments [illegible]

[illegible] .913),

s 3;

[illegible] 1929 (1 of 1929) s. 2; and

[illegible]

p 810,

the Scheduled Districts in Ganjam and Vizagapatam, *see* Gazette of India, 1898, Pt. I, p 869,

[illegible] Gazette of India, 1870, Pt. I, p 705

[illegible]

p 700

[illegible] ment, and [illegible] 12), s 8, as [illegible]

- 35.

(Chapter I.—Preliminary. (Chapter II.—Fees in the High Courts and in the Courts of Small Causes at the Presidency-towns.)

[1]2. [*" Chief Controlling Revenue-authority " defined.*] *Rep. by the A. O.*

CHAPTER II.

FEES IN THE HIGH COURTS AND IN THE COURTS OF SMALL CAUSES AT THE PRESIDENCY-TOWNS.

Levy of fees in High Courts on their original sides.

3. The fees payable for the time being to the clerks and officers (other than the sheriffs and attorneys) of the High Courts established by Letters Patent, by virtue of the power conferred by [2][section 15 of the Indian High Courts Act, 1861, or section 107 of the Govenrment of India Act, 1915] [3][or section 229 of the Government of India Act, 1935]; (24 and Vict. 5 and Geo. 5; 26 Geo. 5, c. 2)

or chargeable in each of such Courts under No. 11 of the first, and Nos. 7, 12, 14,[4]* 20 and 21 of the second schedule to this Act annexed;

Levy of fees in Presidency Small Cause Courts.

and the fees for the time being chargeable in the Courts of Small Causes at the [5]Presidency-towns, and their several offices,

shall be collected in manner hereinafter appearing.

Fees on documents filed, etc., in High Courts in their extraordinary jurisdiction;

4. No document of any of the kinds specified in the first or second schedule to this Act annexed, as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received or furnished by, any of the said High Courts in any case coming before such Court in the exercise of its extraordinary original civil jurisdiction;

or in the exercise of its extraordinary original criminal jurisdiction;

in their appellate Jurisdiction:

or in the exercise of its jurisdiction as regards appeals from the [6][judgments (other than judgments passed in the exercise of the ordinary original Civil Jurisdiction of the Court) of one] or more Judges of the said Court, or of a division Court;

or in the exercise of its jurisdiction as regards appeals from the Courts subject to its superintendence;

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[1] The original s. 2 relating to repeal of enactments was rep. by the Repealing Act, 1870 (14 of 1870). A section defining " Chief Controlling Revenue-authority " was added by s. 2 of the Court-fees (Amendment) Act, 1901 (10 of 1901), and was slightly amended by the Repealing and Amending Act, 1917 (24 of 1917). For the definition of the " Chief Controlling Revenue-authority " *see* now the General Clauses Act, 1897 (10 of 1897), s. 3 (9*a*).

The A. O. rep. s. 2 as in force elsewhere than in Bengal. In that Province the section subs. by the Court-fees (Bengal Amendment) Act, 1935 (Ben. 7 of 1935), s. 3, contains definitions of " appeal ", " Chief Controlling Revenue-authority ", " Collector " and " Suit ".

[2] Subs. by s. 2 and first schedule of the Repealing and Amending Act, 1917 (24 of 1917) for " Statute 24 and 25 of Victoria, Chapter 104, s. 15."

[3] Ins. by the A. O.

[4] The number " 16 " rep. by the Amending Act, 1891 (12 of 1891).

[5] *See* the Presidency Small Cause Courts Act, 1882 (15 of 1882), Ch. X.

[6] Subs. by s. 2 of the Court-fees (Amendment) Act, 1922 (19 of 1922), for " judgment of two ".

or in the exercise of its jurisdiction as a Court of reference or revision, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document

as Courts of reference and revision

5. When any difference arises between the officer whose duty it is to see that any fee is paid under this chapter and any suitor or attorney, as to the necessity of paying a fee or the amount thereof, the question shall, when the difference arises in any of the said High Courts, be referred to the taxing officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the Chief Justice of such High Court, or of such Judge of the High Court as the Chief Justice shall appoint either generally or specially in this behalf

Procedure in case of difference as to necessity or amount of fee

When any such difference arises in any of the said Courts of Small Causes, the question shall be referred to the Clerk of the Court, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the first Judge of such Court

The Chief Justice shall declare who shall be *taxing officer* within the meaning of the first paragraph of this section

CHAPTER III

Fees in other Courts and in Public Offices

6. Except in the Courts hereinbefore mentioned, no document of any of the kinds specified as chargeable in the first or second schedule to this Act annexed shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document

Fees on documents filed, etc, in Mufassal Courts or in public offices

7. The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows —

Computation of fees payable in certain suits

i In suits for money (including suits for damages or compensation, or arrears of maintenance of annuities, or of other sums payable periodically)—according to the amount claimed

for money,

ii In suits for maintenance and annuities or other sums payable periodically—according to the value of the subject matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year:

for maintenance and annuities,

(*Chapter III.—Fees in other Courts and in Public Offices.*)

for moveable property having a market-value;

iii. In suits for moveable property other than money, where the subject-matter has a market-value—according to such value at the date of presenting the plaint:

iv. In suits—

for moveable property of no market-value;

(*a*) for moveable property where the subject-matter has no market-value, as, for instance, in the case of documents relating to title,

to enforce a right to share in joint family property;

(*b*) to enforce the right to share in any property on the ground that it is joint family property,

for a declaratory decree and consequential relief;

(*c*) to obtain a declaratory decree or order, where consequential relief is prayed,

for an injunction;

(*d*) to obtain an injunction,

for easements;

(*e*) for a right to some benefit (not herein otherwise provided for) to arise out of land, and

for accounts;

(*f*) for accounts—

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal:

In all such suits the plaintiff shall state the amount at which he values the relief sought[1] * * *:

for possession of lands, houses and gardens;

v. In suits for the possession of land, houses and gardens—according to the value of the subject-matter; and such value shall be deemed to be—

where the subject-matter is land, and—

(*a*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government,

or forms part of such an estate and is recorded in the Collector's register as separately assessed with such revenue,

and such revenue is permanently settled—

ten times the revenue so payable:

(*b*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid;

and such revenue is settled, but not permanently—

five times the revenue so payable:

(*c*) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue,

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[1] The words "and the provisions of the Code of Civil Procedure, section thirty-one, shall apply as if for the word 'claim' the words 'relief sought' were substituted" rep. by the Amending Act, 1891 (12 of 1891).

and nett profits have arisen from the land during the year next before the date of presenting the plaint—
fifteen times, such nett profits

but where no such nett profits have arisen therefrom—the amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood.

(*d*) where the land forms part of an estate paying revenue to Government but is not a definite share of such estate and is not separately assessed as above mentioned—the market value of the land.

Provided that, in the [1]territories subject to the Governor of Bombay in Council the value of the land shall be deemed to be— **Proviso as to Bombay Presidency;**

(1) where the land is held on settlement for a period not exceeding thirty years and pays the full assessment to Government—a sum equal to five times the survey assessment,

(2) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government—a sum equal to ten times the survey-assessment, and

(3) where the whole or any part of the annual survey assessment is remitted—a sum computed under paragraph (1) or paragraph (2) of this proviso, as the case may be, in addition to ten times the assessment, or the portion of assessment, so remitted.

Explanation.—The word "estate" as used in this paragraph means any land subject to the payment of revenue, for which the proprietor or farmer or raiyat shall have executed a separate engagement to Government, or which, in the absence of such engagement, shall have been separately assessed with revenue.

(*e*) Where the subject matter is a house or garden—according to the market value of the house or garden. **for houses and gardens;**

vi. In suits to enforce a right of pre emption—according to the value (computed in accordance with paragraph v of this section) of the land, house or garden in respect of which the right is claimed. **to enforce a right of pre-emption,**

vii. In suits for the interest of an assignee of land revenue—fifteen times his nett profits as such for the year next before the date of presenting the plaint. **for interest of assignee of land revenue,**

viii. In suits to set aside an attachment of land or of an interest in land or revenue—according to the amount for which the land or interest was attached. **to set aside an attachment,**

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[1] *See* para. 8 of the A. O. In view of this provision the expression "Governor of Bombay in Council" has been left unmodified.

(Chapter III.—Fees in other Courts and in Public Offices.)

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest.

to redeem ; ix. In suits against a mortgagee for the recovery of the property mortgaged,

to foreclose ; and in suits by a mortgagee to foreclose the mortgage,

or, where the mortgage is made by conditional sale, to have the sale declared absolute—

according to the principal money expressed to be secured by the instrument of mortgage :

for specific performance ; x. In suits for specific performance—

(*a*) of a contract of sale—according to the amount of the consideration :

(*b*) of contract of mortgage—according to the amount agreed to be secured :

(*c*) of a contract of lease—according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term :

(*d*) of an award—according to the amount or value of the property in dispute :

between landlord and tenant. xi. In the following suits between landlord and tenant :—

(*a*) for the delivery by a tenant of the counterpart of a lease,

(*b*) to enhance the rent of a tenant having a right of occupancy,

(*c*) for the delivery by a landlord of a lease,

[1](*cc*) for the recovery of immoveable property from a tenant, including a tenant holding over after the determination of a tenancy,

(*d*) to contest a notice of ejectment,

(*e*) to recover the occupancy of [2][immoveable property] from which a tenant has been illegally ejected by the landlord, and

(*f*) for abatement of rent—

according to the amount of the rent of the [2][immoveable property] to which the suit refers, payable for the year next before the date of presenting the plaint.

Fee on memorandum of appeal against order relating to compensation. **8.** The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the [3]acquisition of land for public purposes shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

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[1] Ins. by s. 2 (*1*) of the Court-fees (Amendment) Act, 1905 (6 of 1905).
[2] Subs. by s. 2 (*2*) of *ibid* for " land ".
[3] *See* now the Land Acquisition Act, 1894 (1 of 1894).

(*Chapter III.—Fees in other Courts and in Public Offices.*)

Power to ascertain nett profits or market value

9. If the Court sees reason to think that the annual nett profits or the market-value of any such land, house or garden as is mentioned in section 7, paragraphs 5 and 6, have or has been wrongly estimated, the Court may, for *the purpose of computing the fee payable in any suit therein mentioned*, issue a commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the Court.

Procedure where nett profits or market-value wrongly estimated

10. i. If in the result of any such investigation the Court finds that the nett profits or market-value have or has been wrongly estimated, the Court, if the estimation has been excessive, may in its discretion refund the excess paid as such fee: but, if the estimation has been insufficient, the Court shall require the plaintiff to pay so much additional fee as would have been payable had the said market value or nett profits been rightly estimated.

ii. In such case the suit shall be stayed until the additional fee is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

1* * * * * *

Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed

11. In suits for mesne profits or for immoveable property and mesne profits, or for an account, if the profits or amount decreed are or is in excess of the profits claimed or the amount at which the plaintiff valued the relief sought, the decree shall not be executed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount so decreed shall have been paid to the proper officer.

Where the amount of mesne profits is left to be ascertained in the course of the execution of the decree, if the profits so ascertained exceed the profits claimed, the further execution of the decree shall be stayed until the difference between the fee actually paid and the fee which would have been payable had *the suit comprised the whole of the profits so ascertained* is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

Decision of question as to valuation

12. i. Every question relating to valuation for the purpose of determining *the amount of any fee chargeable under this chapter* on a plaint or memorandum of appeal shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit.

ii. But whenever any such suit comes before a Court of appeal, reference or revision, if such Court considers that the said question has been wrongly decided to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and the provisions of section 10, paragraph ii, shall apply.

annual nett profits' were inserted after the word damages

Fee paid on memorandum of appeal.

13. If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the [1]Code of Civil Procedure, is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in [2]section 351 of the same Code for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of fee paid on the memorandum of appeal:

Provided that if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

Refund of fee on application for review of judgment.

14. Where an [3]application for a review of judgment is presented on or after the ninetieth day from the date of the decree, the Court, unless the delay was caused by the applicant's laches, may, in its discretion, grant him a certificate authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before [4]such day.

Refund where Court reverses or modifies its former decision on ground of mistake.

15. Where an application for a review of judgment is admitted, and where, on the rehearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Collector so much of the fee paid on the [5][application] as exceeds the fee payable on any other application to such Court under the second schedule to this Act, No. 1, clause (*b*) or clause (*d*).

But nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

16. [*Additional fee where respondent takes objection to unappealed part of decree.*] *Rep. by the Code of Civil Procedure, 1908 (V of 1908).*

Multifarious suits.

17. Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act.

Nothing in the former part of this section shall be deemed to affect the power conferred by the [1]Code of Civil Procedure, section 9.

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[1] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

[2] This reference should now be read as applying to the corresponding provision of Act 5 of 1908, *i.e.*, Order XLI, rule 23 of the First Schedule.

[3] As to application for review of judgment, *see* the Code of Civil Procedure, 1908 (Act 5 of 1908), s. 114 and Order XLVII of the First Schedule.

[4] *See* Sch. I, Nos. 4 and 5, *infra*.

[5] Subs. by s. 1 of the Court-fees Act Amendment Act, 1870 (20 of 1870), (amending this Act), for "plaint or memorandum of appeal".

(Chapter III —Fees in other Courts and in Public Offices)

18. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police officers may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the [1]Code of Criminal Procedure, the complainant shall pay a fee of eight annas, unless the Court thinks fit to remit such payment

Written examinations of complainants.

19. Nothing contained in this Act shall render the following documents chargeable with any fee —

Exemption of certain documents.

i Power of attorney to institute or defend a suit when executed by an officer, warrant-officer, non commissioned officer or private of Her Majesty's army not in civil employment

ii [*Rep by the Amending Act, 1891 (XII of 1891)*]

iii Written statements called for by the Court after the first hearing of a suit

iv [*Rep by the Cantonments Act, 1889 (XIII of 1889)*]

v Plaints in suits tried by [2]Village Munsifs in the Presidency of Fort St George

vi Plaints and processes in suits before District Panchayats in the same Presidency

vii Plaints in suits before Collectors under Madras Regulation XII of 1816

viii Probate of a will, letters of administration, [3][and, save as regards debts and securities, a certificate under Bombay Regulation VIII of 1827], where the amount or value of the property in respect of which the probate or letters or certificate shall be granted does not exceed one thousand rupees

ix Application or petition to a Collector or other officer making a settlement of land revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of land or the ascertainment of rights thereto or interests therein, if presented previous to the final confirmation of such settlement

x Application relating to a supply for irrigation of water belonging to Government

xi Application for leave to extend cultivation, or to relinquish land, when presented to an officer of land revenue by a person holding, under direct engagement with Government, land of which the revenue is settled, but not permanently.

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[1] This reference should now be read as referring to the Code of Criminal Procedure (Act 5 of 1898)—*see* s. 3 of that Act

[2] *See the Madras Village Courts Act, 1889 (Mad 1 of 1889).*

[3] Subs by s. 13 (2) of the Succession Certificate Act, 1889 (7 of 1889) for "and certificate mentioned in the First Schedule to this Act annexed, No. 12".

xii. Application for service of notice of relinquishment of land or of enhancement of rent.

xiii. Written authority to an agent to distrain.

xiv. First application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court.

xv. Bail-bonds in criminal cases, recognizances to prosecute or give evidence, and recognizances for personal appearance or otherwise.

xvi. Petition, application, charge or information respecting any offence when presented, made or laid to or before a Police-officer, or to or before the [1]Heads of Villages or the [2]Village Police in the territories respectively subject to the Governors in Council of Madras and Bombay.

xvii. Petition by a prisoner, or other person in duress or under restraint of any Court or its officers.

xviii. Complaint of a public servant (as defined in the Indian Penal Code), a municipal officer, or an officer or servant of a Railway Company. XLV of 1860.

xix. Application for permission to cut timber in Government forests, or otherwise relating to such forests.

xx. Application for the payment of money due by Government to the applicant.

xxi. Petition of appeal against the chaukidari assessment under [3]Act No. XX of 1856, or against any municipal tax.

xxii. Applications for compensation under any law for the time being in force relating to the [4]acquisition of property for public purposes.

xxiii. Petitions presented to the Special Commissioner appointed under [5]Bengal Act No. II of 1869 (*to ascertain, regulate and record certain tenures in Chota Nagpore*).

[6]xxiv. [Petitions under the Indian Christian Marriage Act, 1872, sections 45 and 48.] XV of 1872.

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[1] *See* Madras Regulations 11 of 1816 and 4 of 1821, s. 6.

[2] *See* Bombay Village Police Act, 1867 (Bom. 8 of 1867), ss. 14, 15 and 16.

[3] The Bengal Chaukidari Act, 1856.

[4] *See* now the Land Acquisition Act, 1894 (1 of 1894).

[5] The Chota Nagpur Tenures Act, 1869.

[6] Subs. by s. 2 of the Indian Christian Marriage Act, 1872 (15 of 1872), for the original clause which read as follows :—"petitions under the 14th and 15th of Victoria, Ch. 40 (*an Act for marriages in India*), s. 5, or under Act No. 5 of 1852, s. 9 ".

CHAPTER IIIA[1]

PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION

19A. Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a court-fee thereon, if, within six months after the true value of the property has been ascertained, such person produces the probate or letters to the Chief Controlling Revenue authority [2][for the local area] in which the probate or letters has or have been granted, *Relief where too high a court fee has been paid.*

and delivers to such Authority a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation,

and if such Authority is satisfied that a greater fee was paid on the probate or letters than the law required,

the said Authority may—

(*a*) cancel the stamp on the probate or letters if such stamp has not been already cancelled ;

(*b*) substitute another stamp for denoting the court-fee which should have been paid thereon ; and

(*c*) make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money at his discretion.

19B. Whenever it is proved to the satisfaction of such Authority that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or value of the estate, reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less court fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act, *Relief where debts due from a deceased person have been paid out of his estate.*

such Authority may return the difference, provided the same be claimed within three years after the date of such probate or letters.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the said Authority may allow such further time for making the claim as may appear to be reasonable under the circumstances.

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[1] Chapter IIIA ins. by s. 6 of the Probate and Administration Act, 1875 (13 of 1875).
[2] Subs. by s. 3 (*1*) of the Court-fees (Amendment) Act, 1901 (10 of 1901) for " of the Province ".

(*Chapter IIIA.—Probates, Letters of Administration and Certificates of Administration.*)

Relief in case of several grants.

19C. Whenever [1] * a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

Probates declared valid as to trust-property though not covered by court-fee.

19D. The probate of the will or the letters of administration of the effects of any person deceased heretofore or hereafter granted shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any moveable or immoveable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a court-fee was paid on such probate or letters of administration.

Provision for case where too low a court-fee has been paid on probates, etc.

19E. Where any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a court-fee thereon, the Chief Controlling Revenue-authority [2][for the local area] in which the probate or letters has or have been granted may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full court-fee which ought to have been originally paid thereon in respect of such value and of the further penalty, if the probate or letters is or are produced within one year from the date of grant, of five times, or, if it or they is or are produced after one year from such date, of twenty times, such proper court-fee, without any deduction of the court-fee originally paid on such probate or letters:

Provided that, if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a court-fee was at first paid on the probate or letters, and if the said Authority is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper court-fee, the said Authority may remit the said penalty and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

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[1] The word "such" rep. by the Amending Act, 1891 (12 of 1891).
[2] Subs. by s. 3 (*1*) of the Court-fees (Amendment) Act, 1901 (10 of 1901) for "of the Province".

(*Chapter IIIA.—Probates, Letters of Administration and Certificates of Administration.*)

Administrator to give proper security before letters stamped under section 19E.

19F. In case of letters of administration on which too low a court-fee has been paid at first, the said Authority shall not cause the same to be duly stamped in manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had been then ascertained.

Executors, etc., not paying full court fee on probates, etc., within six months after discovery of under payment.

[1]**19G.** Where too low a court fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months[2] * * * * * after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, apply to the said Authority and pay what is wanting to make up the court fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupees per cent. on the amount of the sum wanting to make up the proper court fee.

Notice of applications for probate or letters of administration to be given to Revenue authorities, and procedure thereon.

[3][**19H.** (*1*) Where an application for probate or letters of administration is made to any Court other than a High Court, the Court shall cause notice of the application to be given to the Collector.

(*2*) Where such an application as aforesaid is made to a High Court, the High Court shall cause notice of the application to be given to the Chief Controlling Revenue authority [4][for the local area in which the High Court is situated].

(*3*) The Collector within the local limits of whose revenue jurisdiction the property of the deceased or any part thereof is, may at any time inspect or cause to be inspected, and take or cause to be taken copies of, the record of any case in which application for probate or letters of administration has been made; and if, on such inspection or otherwise, he is of opinion that the petitioner has under estimated the value of the property of the deceased, the Collector may, if he thinks fit, require the attendance of the petitioner (either in person or by agent) and take evidence and inquire into the matter in such manner as he may think fit, and, if he is still of opinion that the value of the property has been under estimated, may require the petitioner to amend the valuation.

(*4*) If the petitioner does not amend the valuation to the satisfaction of the Collector, the Collector may move the Court before which the

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[1] As to recovery of penalties or forfeitures under s. 19G, see s. 19J, *infra*.
[2] The words and figures "after the first day of April 1875, or" rep. by the Amending Act, 1891 (12 of 1891).
[3] Ins. by s. 2 of the Court fees Amendment Act, 1899 (11 of 1899).
[4] Subs. by s. 3 (2) of the Court fees Amendment Act, 1901 (10 of 1901) for "of the Provinces".

application for probate or letters of administration was made, to hold an inquiry into the true value of the property :

Provided that no such motion shall be made after the expiration of six months from the date of the exhibition of the inventory required by section 277 of the [1]Indian Succession Act, 1865, or, as the case may be, by section 98 of [1]the Probate and Administration Act, 1881. X V

(*5*) The Court, when so moved as aforesaid, shall hold, or cause to be held, an inquiry accordingly, and shall record a finding as to the true value, as near as may be, at which the property of the deceased should have been estimated. The Collector shall be deemed to be a party to the inquiry.

(*6*) For the purposes of any such inquiry, the Court or person authorized by the Court to hold the inquiry may examine the petitioner for probate or letters of administration on oath (whether in person or by commission), and may take such further evidence as may be produced to prove the true value of the property. The person authorized as aforesaid to hold the inquiry shall return to the Court the evidence taken by him and report the result of the inquiry, and such report and the evidence so taken shall be evidence in the proceeding, and the Court may record a finding in accordance with the report, unless it is satisfied that it is erroneous.

(*7*) The finding of the Court recorded under sub-section (*5*) shall be final, but shall not bar the entertainment and disposal by the Chief Controlling Revenue-authority of any application under section 19E.

(*8*) The [2][Provincial Government] may make rules for the guidance of Collectors in the exercise of the powers conferred by sub-section (*3*).]

Payment of court-fees in respect of probates and letters of administration.

[3][**19I.** (*1*) No order entitling the petitioner to the grant of probate or letters of administration shall be made upon an application for such grant until the petitioner has filed in the Court a valuation of the property in the form set forth in the third schedule, and the Court is satisfied that the fee mentioned in No. 11 of the first schedule has been paid on such valuation.

(*2*) The grant of probate or letters of administration shall not be delayed by reason of any motion made by the Collector under section 19H, sub-section (*4*).]

Recovery of penalties, etc.

[3][**19J.** (*1*) Any excess fee found to be payable on an inquiry held under section 19H, sub-section (*6*), and any penalty or forfeiture under section 19G, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an arrear of land-revenue by any Collector in any part of British India.

(*2*) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture as aforesaid, or any part of any penalty under section 19E or of any court-fee under section 19E in excess of the full court-fee which ought to have been paid.]

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[1] *See* now, the Indian Succession Act, 1925 (39 of 1925).
[2] Subs. by the A. O. for "L. G."
[3] Ins. by s. 2 of the Court-fees Amendment Act, 1899 (11 of 1899).

[1][**19K.** Nothing in section 6 or section 28 shall apply to probates or letters of administration] Sections 6 and 28 not to apply to probate or letters of administration

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CHAPTER IV

PROCESS FEES

20. The High Court shall, as soon as may be, make rules as to the following matters — Rules as to cost of processes

i The fees chargeable for serving and executing processes issued by such Court in its appellate jurisdiction, and by the other Civil and Revenue Courts established within the local limits of such jurisdiction ,

ii the fees chargeable for serving and executing processes issued by the Criminal Courts established within such limits in the case of offences other than offences for which police officers may arrest without a warrant , and

iii the remuneration of the peons and all other persons employed by leave of a Court in the service or execution of processes

The High Court may from time to time alter and add to the rules so made

All such rules, alterations and additions shall, after being confirmed by the [2][Provincial Government] [3]* * * * be published in the [4][Official Gazette], and shall thereupon have the force of law Confirmation and publication of rules

Until such rules shall be so made and published, the fees now leviable for serving and executing processes shall continue to be levied, and shall be deemed to be fees leviable under this Act

21. A table in the English and Vernacular languages, showing the fees chargeable for such service and execution, shall be exposed to view in a conspicuous part of each Court Tables of process fees

22. Subject to [5]rules to be made by the High Court and approved by the [2][Provincial Government] [6]* * * , Number of peons in District and subordinate Courts

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[1] Ins by s 2 of the Court fees Amendment Act 1899 (11 of 1899)

[2] Subs by the A O for L G

[3] ... by the G G of India in C rep by s 2 and Sch I of the Deve[illegible]

[4] [illegible] ,

[5] [illegible] by this section see different Local Rules and Orders

[6] The words and the G G of India in C rep by s 2 and Sch I of the Devolution Act, 1920 (38 of 1920)

every District Judge and every Magistrate of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court and each of the Courts subordinate thereto,

Number of peons in Mufassal Small Cause Courts.

and for the purposes of this section, every Court of Small Causes established under Act No. XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*)[1] shall be deemed to be subordinate to the Court of the District Judge.

Number of peons in Revenue Courts.

23. Subject to rules [2]to be framed by the Chief Controlling Revenue-authority and approved by the [3][Provincial Government] [4]* * * every officer performing the functions of a Collector of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court or the Courts subordinate to him.

24. [*Process served under this Chapter to be held to be process within meaning of Code of Civil Procedure.*] *Rep. by the Repealing and Amending Act, 1891* (*XII of 1891*).

CHAPTER V.

OF THE MODE OF LEVYING FEES.

Collection of fees by stamps.

25. All fees referred to in section 3 or chargeable under this Act shall be collected by stamps.

Stamps to be impressed or adhesive.

26. The stamps used to denote any fees chargeable under this Act shall be impressed or adhesive, or partly impressed and partly adhesive, as the [5][Appropriate Government] may, by notification in the [6][Official Gazette] from time to time direct.[7]

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[1] The reference to Act 11 of 1865 should now be read as referring to the Provincial Small Cause Courts Act, 1887 (9 of 1887): *see* s. 2 (3) of that Act.

[2] For rules framed under this section, *see* different Local Rules and Orders.

[3] Subs. by the A. O. for "L. G."

[4] The words "and the G. G. of India in C." rep. by s. 2 and Sch. I of the Devolution Act 1920 (38 of 1920).

[5] Subs. by the A. O. for the words "L. G.", which had been subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for "G. G. of India in C."

[6] Subs. by the A. O. for the words "local official Gazette" which had been subs. for "Gazette of India" by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

[7] For rules as to levy of court-fees by adhesive and impressed stamps, *see* Gazette of India, 1883, Pt. I, p. 189.

27. The [1][Appropriate Government] may, from time to time, make [2]rules for regulating— Rules for supply, number, renewal and keeping accounts of stamps

(a) the supply of stamps to be used under this Act,

(b) the number of stamps to be used for denoting any fee chargeable under this Act,

(c) the renewal of damaged or spoiled stamps, and

(d) the keeping accounts of all stamps used under this Act

Provided that, in the case of stamps used under section 3 in a High Court, such rules shall be made with the concurrence of the Chief Justice of such Court

All such rules shall be published in the [3][Official Gazette], and shall thereupon have the force of law

28. No document which ought to bear a stamp under this Act shall be of any validity, unless and until it is properly stamped Stamping documents inadvertently received

But, if any such document is through mistake or inadvertence received, filed or used in any Court or office without being properly stamped, the presiding Judge or the head of the office, as the case may be, or, in the case of a High Court, any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct, and, on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance

29. Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp Amended document

30. No document requiring a stamp under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled Cancellation of stamp

Such officer as the Court or the head of the office may from time to time appoint shall, on receiving any such document, forthwith effect such cancellation by punching out the figure head so as to leave the amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed

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CHAPTER VI

MISCELLANEOUS

31. *[Repayment of fees paid on applications to Criminal Courts]* *Rep by the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923), s 163*

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[1] Subs. by the A O for "L G" For definition of "Appropriate Govt", see s 1A, supra

[2] For rules under s 27, see different Local Rules and Orders

[3] Subs by the A O for "local official Gazette"

(*Chapter VI.—Miscellaneous.*)

32. [*Amendment of Act VIII of 1859 and Act IX of 1869.*] *Rep. by the Repealing and Amending Act, 1891* (*XII of 1891*).

Admission in criminal cases of documents for which proper fee has not been paid.

33. Whenever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in section 4 or section 6 shall be deemed to prohibit such filing or exhibition.

Sale of stamps.

[1][**34.** (*1*) The [2][Appropriate Government] may from time to time make [3]rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons.

(*2*) All such rules shall be published in the [4][Official Gazette], and shall thereupon have the force of law.

(*3*) Any person appointed to sell stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.]

Power to reduce or remit fees.

35. The [5][Appropriate Government] may, from time to time by [6]notification in the [7][Official Gazette] reduce or remit, in the whole or in any part of [8][the territories under its administration] all or any of the fees mentioned in the first and second schedules to this Act annexed, and may in like manner cancel or vary such order.

Saving of fees to certain officers of High Courts.

36. Nothing in Chapters II and V of this Act applies to the commission payable to the Accountant General of the High Court at Fort William, or to the fees which any officer of a High Court is allowed to receive in addition to a fixed salary.

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[1] Subs. for original section by the Amending Act, 1891 (12 of 1891).

[2] Subs. by the A. O. for "L. G." For definition of "Appropriate Government", *see* s. 1A, *supra*.

[3] For rules issued under this section, *see* different Local Rules and Orders.

[4] Subs. by the A. O. for "local official Gazette."

[5] Subs. by the A. O. for "L. G." which words had been subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for "G. G. of India in C."

[6] *See* Gen. R. and O. and for notification by the Chief Commissioner of Delhi, *see* Gazette of India, 1921, Pt. II, p. 343.

[7] Subs. by the A. O. for the words "local official Gazette" which had been subs. for "Gazette of India" by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[8] Subs. by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920) for "British India".

(*Schedule I.—Ad valorem fees.*)

SCHEDULE I.

Ad valorem fees

Number.	——	Proper Fee.
1. [1]Plaint [2][written statement pleading a set off or counter claim] or memorandum of appeal (not otherwise provided for in this Act) [2][or of cross objection] presented to any Civil or Revenue Court except those mentioned in section 3.	When the amount or value of the subject matter in dispute does not exceed five rupees	Six annas.
	When such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees	Six annas.
	When such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees	Twelve annas.
	When such amount or value exceeds one thousand rupees, for every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees	Five rupees.
	When such amount or value exceeds five thousand rupees, for every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees	Ten rupees.
	When such amount or value exceeds ten thousand rupees, for every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees	Fifteen rupees.
	When such amount or value exceeds twenty thousand rupees, for every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to thirty thousand rupees.	Twenty rupees.

[1] To ascertain the proper fee leviable on the institution of a suit, *see* the table annexed to this Schedule

[2] Ins. by s 155 and the Fourth Schedule of the Code of Civil Procedure, 1908 (Act 5 of 1908)

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(*Schedule I.—Ad valorem fees.*)

SCHEDULE I.—*contd.*

Ad valorem fees—contd.

Number.	——	Proper Fee.
1. Plaint, etc.—*contd.*	When such amount or value exceeds thirty thousand rupees, for every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees.	Twenty rupees.
	When such amount or value exceeds fifty thousand rupees, for every five thousand rupees, or part thereof, in excess of fifty thousand rupees.	Twenty-five rupees.
	Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be three thousand rupees.	
2. Plaint [1]*** in a suit for possession under [2][the Specific Relief Act, 1877, section 9]. 3. [*Repealed by Act VIII of 1871*].	....	A fee of one-half the amount prescribed in the foregoing scale.
4. Application for review of judgment, [3]if presented on or after the ninetieth day from the date of the decree.	....	The fee leviable on the plaint or memorandum of appeal.
5. Application for review of judgment, [3]if presented before the ninetieth day from the date of the decree.	....	One-half of the fee leviable on the plaint or memorandum of appeal.
6. Copy or translation of a judgment or order not being, or having the force of, a decree.	When such judgment or order is passed by any Civil Court other than a High Court, or by the presiding officer of any Revenue Court or Office, or by any other Judicial or Executive Authority— (*a*)—If the amount or value of the subject-matter is fifty or less than fifty rupees.	Four annas.

[1] The words "or memorandum of appeal" rep. by the Court-fees Act Amendment Act, 1870 (20 of 1870).

[2] Subs. by the Amending Act, 1891 (12 of 1891) for "Act No. 14 of 1859 (*to provide for the limitation of suits*)".

[3] As to application for review of judgment, *see* the Code of Civil Procedure, 1908 (Act 5 of 1908).

(*Schedule I.—Ad valorem fees*)

SCHEDULE I—*contd*

Ad valorem fees—contd

Number	—	Proper Fee.
6 Copy, etc —*contd* .	(*b*)—If such amount or value exceeds fifty rupees	Eight annas
	When such judgment or order is passed by a High Court	One rupee
7 Copy of a decree or order having the force of a decree	When such decree or order is made by any Civil Court other than a High Court, or by any Revenue Court—	
	(*a*)—If the amount or value of the subject matter of the suit wherein such decree or order is made is fifty or less than fifty rupees	Eight annas
	(*b*)—If such amount or value exceeds fifty rupees	One rupee
	When such decree or order is made by a High Court	*Four rupees*
1879. 8 Copy of any document liable to stamp duty under the Indian Stamp Act, 1879,[1] when left by any party to a suit or proceeding in place of the original withdrawn	(*a*)—When the stamp duty chargeable on the original does not exceed eight annas	The amount of the duty chargeable on the original
	(*b*)—In any other case .	Eight annas
9 Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any account, statement, report or the like, taken out of any Civil or Criminal or Revenue Court or Office, or from the office of any chief officer charged with the executive administration of a Division	For every three hundred and sixty words or fraction of three hundred and sixty words	Eight annas
10 [*Repealed by the Guardians and Wards Act, 1890 (VIII of 1890)*]	...	.
[2]11 Probate of a will or letters of administration with or without will annexed	[3](When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees, but does not exceed ten thousand rupees	Two per centum on such amount or value

[1] *See* now the Indian Stamp Act, 1899 (2 of 1899)

[2] Subs by the Succession Certificate Act, 1889 (7 of 1889), s 13 (*1*), for the original Article 11

[3] These items were subs by s 2 (*i*) of the Court fees (Amendment) Act, 1910 (7 of 1910).

(*Schedule I.—Ad valorem fees.*)

SCHEDULE I—*contd.*

Ad valorem fees—contd.

Number.	—	Proper Fee.	
11. Probate, etc.—*contd.*	When such amount or value exceeds ten thousand rupees, but does not exceed fifty thousand rupees.	Two and one-half per centum on such amount or value.	
	When such amount or value exceeds fifty thousand rupees.	Three per centum on such amount or value.]	
	Provided that when, after the grant of a certificate under the Succession Certificate Act, 1889, or under the Regulation of the Bombay Code, No. VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.		VII of 1889.
[1]12. Certificate under the Succession Certificate Act, 1889.	In any case . . .	Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act. NOTE.—(1) The amount of a debt is its amount, including interest on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained. (2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act; and where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.	VII of 1889.

[1] Subs. for original Art. 12 by the Succession Certificate Act, 1889 (7 of 1889), s. 13 (*1*).

(Schedule I.—Ad valorem fees.)

SCHEDULE I—*contd.*

Ad valorem fees—concld.

	Number.	—	Proper Fee.
VII of 1889.	[1]12A Certificate under the Regulation of the Bombay Code, No. VIII of 1827.	[2][(1) As regards debts and securities.	The same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889[3], or in respect of an extension of such a certificate, as the case may be.
		(2) As regards other property in respect of which the certificate is granted—	
		When the amount or value of such property exceeds one thousand rupees, but does not exceed ten thousand rupees.	Two per centum on such amount or value.
		When such amount or value exceeds ten thousand rupees, but does not exceed fifty thousand rupees	Two and one half per centum on such amount or value.
		When such amount or value exceeds fifty thousand rupees.	Three per centum on such amount or value]
Punjab VI of 1918. XVI of 1887.	[3]13. Application to the High Court of Judicature at Lahore for the exercise of its jurisdiction under section 44 of the Punjab Courts Act, 1918, or to the Court of the Financial Commissioner of the Punjab for the exercise of its revisional jurisdiction under section 84 of the Punjab Tenancy Act, 1887.	When the amount or value of the subject-matter in dispute does not exceed twenty five rupees.	Two rupees.
		When such amount or value exceeds twenty five rupees.	The fee leviable on a memorandum of appeal.
	[4]14 * * * * *		
	[5]15 * * * * *		

[1] Subs for original Art 12-A by the Succession Certificate Act, 1889 (7 of 1889) s. 13 (i).

[2] These items were subs. by s 2 (ii) of the Court fees (Amendment) Act, 1910 (7 of 1910).

[3] [illegible] y the [illegible] unjab [illegible] Scho- [illegible] been [illegible], 1922 (Punjab 7 of 1922).

[4] Rep by the A. O.

[5] Rep. by s 3 & 2nd Sch. of the Repealing and Amending Act, 1923 (11 of 1923).

(*Schedule I.—Table of rates of ad valorem fees, etc.*)

SCHEDULE I—*contd.*

Table of rates of ad valorem fees leviable on the institution of suits.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
..	5	0 6 0
5	10	0 12 0
10	15	1 2 0
15	20	1 8 0
20	25	1 14 0
25	30	2 4 0
30	35	2 10 0
35	40	3 0 0
40	45	3 6 0
45	50	3 12 0
50	55	4 2 0
55	60	4 8 0
60	65	4 14 0
65	70	5 4 0
70	75	5 10 0
75	80	6 0 0
80	85	6 6 0
85	90	6 12 0
90	95	7 2 0
95	100	7 8 0
100	110	8 4 0
110	120	9 0 0
120	130	9 12 0
130	140	10 8 0
140	150	11 4 0
150	160	12 0 0
160	170	12 12 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—*contd.*

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
170	180	13 8 0
180	190	14 4 0
190	200	15 0 0
200	210	15 12 0
210	220	16 8 0
220	230	17 4 0
230	240	18 0 0
240	250	18 12 0
250	260	19 8 0
260	270	20 4 0
270	280	21 0 0
280	290	21 12 0
290	300	22 8 0
300	310	23 4 0
310	320	24 0 0
320	330	24 12 0
330	340	25 8 0
340	350	26 4 0
350	360	27 0 0
360	370	27 12 0
370	380	28 8 0
380	390	29 4 0
390	400	30 0 0
400	410	30 12 0
410	420	31 8 0
420	430	32 4 0
430	440	33 0 0

(*Schedule I.—Table of rates of ad valorem fees, etc.*)

SCHEDULE I—*contd.*

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
440	450	33 12 0
450	460	34 8 0
460	470	35 4 0
470	480	36 0 0
480	490	36 12 0
490	500	37 8 0
500	510	38 4 0
510	520	39 0 0
520	530	39 12 0
530	540	40 8 0
540	550	41 4 0
550	560	42 0 0
560	570	42 12 0
570	580	43 8 0
580	590	44 4 0
590	600	45 0 0
600	610	45 12 0
610	620	46 8 0
620	630	47 4 0
630	640	48 0 0
640	650	48 12 0
650	660	49 8 0
660	670	50 4 0
670	680	51 0 0
680	690	51 12 0
690	700	52 8 0
700	710	53 4 0

(*Schedule I.—Table of rates of ad valorem fees, etc*)

SCHEDULE I—*contd.*

Table of rates of ad valorem fees, etc —contd.

When the amount or value of the subject matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs	Rs A P.
710	720	54 0 0
720	730	54 12 0
730	740	55 8 0
740	750	56 4 0
750	760	57 0 0
760	770	57 12 0
770	780	58 8 0
780	790	59 4 0
790	800	60 0 0
800	810	60 12 0
810	820	61 8 0
820	830	62 4 0
830	840	63 0 0
840	850	63 12 0
850	860	64 8 0
860	870	65 4 0
870	880	66 0 0
880	890	66 12 0
890	900	67 8 0
900	910	68 4 0
910	920	69 0 0
920	930	69 12 0
930	940	70 8 0
940	950	71 4 0
950	960	72 0 0
960	970	72 12 0
970	980	73 8 0

SCHEDULE I—*contd.*

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
980	990	74 4 0
990	1,000	75 0 0
1,000	1,100	80 0 0
1,100	1,200	85 0 0
1,200	1,300	90 0 0
1,300	1,400	95 0 0
1,400	1,500	100 0 0
1,500	1,600	105 0 0
1,600	1,700	110 0 0
1,700	1,800	115 0 0
1,800	1,900	120 0 0
1,900	2,000	125 0 0
2,000	2,100	130 0 0
2,100	2,200	135 0 0
2,200	2,300	140 0 0
2,300	2,400	145 0 0
2,400	2,500	150 0 0
2,500	2,600	155 0 0
2,600	2,700	160 0 0
2,700	2,800	165 0 0
2,800	2,900	170 0 0
2,900	3,000	175 0 0
3,000	3,100	180 0 0
3,100	3,200	185 0 0
3,200	3,300	190 0 0
3,300	3,400	195 0 0
3,400	3,500	200 0 0

(Schedule I.—Table of rates of ad valorem fees, etc)

SCHEDULE I—*contd.*

Table of rates of ad valorem fees, etc—contd.

When the amount or value of the subject matter exceeds	But does not exceed	Proper Fee
Rs	Rs	Rs A. P.
3,500	3,600	205 0 0
3,600	3,700	210 0 0
3,700	3,800	215 0 0
3,800	3,900	220 0 0
3,900	4,000	225 0 0
4,000	4,100	230 0 0
4,100	4,200	235 0 0
4,200	4,300	240 0 0
4,300	4,400	245 0 0
4,400	4,500	250 0 0
4,500	4,600	255 0 0
4,600	4,700	260 0 0
4,700	4,800	265 0 0
4,800	4,900	270 0 0
4,900	5,000	275 0 0
5,000	5,250	285 0 0
5,250	5,500	295 0 0
5,500	5,750	305 0 0
5,750	6,000	315 0 0
6,000	6,250	325 0 0
6,250	6,500	335 0 0
6,500	6,750	345 0 0
6,750	7,000	355 0 0
7,000	7,250	365 0 0
7,250	7,500	375 0 0
7,500	7,750	385 0 0
7,750	8,000	395 0 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—*contd.*

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
8,000	8,250	405 0 0
8,250	8,500	415 0 0
8,500	8,750	425 0 0
8,750	9,000	435 0 0
9,000	9,250	445 0 0
9,250	9,500	455 0 0
9,500	9,750	465 0 0
9,750	10,000	475 0 0
10,000	10,500	490 0 0
10,500	11,000	505 0 0
11,000	11,500	520 0 0
11,500	12,000	535 0 0
12,000	12,500	550 0 0
12,500	13,000	565 0 0
13,000	13,500	580 0 0
13,500	14,000	595 0 0
14,000	14,500	610 0 0
14,500	15,000	625 0 0
15,000	15,500	640 0 0
15,500	16,000	655 0 0
16,000	16,500	670 0 0
16,500	17,000	685 0 0
17,000	17,500	700 0 0
17,500	18,000	715 0 0
18,000	18,500	730 0 0
18,500	19,000	745 0 0
19,000	19,500	760 0 0

(*Schedule I.—Table of rates of ad valorem fees, etc.*)

SCHEDULE I—*contd.*

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
19,500	20,000	775 0 0
20,000	21,000	795 0 0
21,000	22,000	815 0 0
22,000	23,000	835 0 0
23,000	24,000	855 0 0
24,000	25,000	875 0 0
25,000	26,000	895 0 0
26,000	27,000	915 0 0
27,000	28,000	935 0 0
28,000	29,000	955 0 0
29,000	30,000	975 0 0
30,000	32,000	995 0 0
32,000	34,000	1,015 0 0
34,000	36,000	1,035 0 0
36,000	38,000	1,055 0 0
38,000	40,000	1,075 0 0
40,000	42,000	1,095 0 0
42,000	44,000	1,115 0 0
44,000	46,000	1,135 0 0
46,000	48,000	1,155 0 0
48,000	50,000	1,175 0 0
50,000	55,000	1,200 0 0
55,000	60,000	1,225 0 0
60,000	65,000	1,250 0 0
65,000	70,000	1,275 0 0
70,000	75,000	1,300 0 0
75,000	80,000	1,325 0 0

(*Schedule I.—Table of rates of ad valorem fees, etc.*)

SCHEDULE I—*contd.*

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
8,000	8,250	405 0 0
8,250	8,500	415 0 0
8,500	8,750	425 0 0
8,750	9,000	435 0 0
9,000	9,250	445 0 0
9,250	9,500	455 0 0
9,500	9,750	465 0 0
9,750	10,000	475 0 0
10,000	10,500	490 0 0
10,500	11,000	505 0 0
11,000	11,500	520 0 0
11,500	12,000	535 0 0
12,000	12,500	550 0 0
12,500	13,000	565 0 0
13,000	13,500	580 0 0
13,500	14,000	595 0 0
14,000	14,500	610 0 0
14,500	15,000	625 0 0
15,000	15,500	640 0 0
15,500	16,000	655 0 0
16,000	16,500	670 0 0
16,500	17,000	685 0 0
17,000	17,500	700 0 0
17,500	18,000	715 0 0
18,000	18,500	730 0 0
18,500	19,000	745 0 0
19,000	19,500	760 0 0

(*Schedule I —Table of rates of ad valorem fees, etc.*)

SCHEDULE I—*contd.*

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject matter exceeds	But does not exceed	Proper Fee.
Rs	Rs	Rs. A. P.
19,500	20,000	775 0 0
20,000	21,000	795 0 0
21,000	22,000	815 0 0
22,000	23,000	835 0 0
23,000	24,000	855 0 0
24,000	25,000	875 0 0
25,000	26,000	895 0 0
26,000	27,000	915 0 0
27,000	28,000	935 0 0
28,000	29,000	955 0 0
29,000	30,000	975 0 0
30,000	32,000	995 0 0
32,000	34,000	1,015 0 0
34,000	36,000	1,035 0 0
36,000	38,000	1,055 0 0
38,000	40,000	1,075 0 0
40,000	42,000	1,095 0 0
42,000	44,000	1,115 0 0
44,000	46,000	1,135 0 0
46,000	48,000	1,155 0 0
48,000	50,000	1,175 0 0
50,000	55,000	1,200 0 0
55,000	60,000	1,225 0 0
60,000	65,000	1,250 0 0
65,000	70,000	1,275 0 0
70,000	75,000	1,300 0 0
75,000	80,000	1,325 0 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—*contd.*

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.		
Rs.	Rs.	Rs.	A.	P.
80,000	85,000	1,350	0	0
85,000	90,000	1,375	0	0
90,000	95,000	1,400	0	0
95,000	1,00,000	1,425	0	0
1,00,000	1,05,000	1,450	0	0
1,05,000	1,10,000	1,475	0	0
1,10,000	1,15,000	1,500	0	0
1,15,000	1,20,000	1,525	0	0
1,20,000	1,25,000	1,550	0	0
1,25,000	1,30,000	1,575	0	0
1,30,000	1,35,000	1,600	0	0
1,35,000	1,40,000	1,625	0	0
1,40,000	1,45,000	1,650	0	0
1,45,000	1,50,000	1,675	0	0
1,50,000	1,55,000	1,700	0	0
1,55,000	1,60,000	1,725	0	0
1,60,000	1,65,000	1,750	0	0
1,65,000	1,70,000	1,775	0	0
1,70,000	1,75,000	1,800	0	0
1,75,000	1,80,000	1,825	0	0
1,80,000	1,85,000	1,850	0	0
1,85,000	1,90,000	1,875	0	0
1,90,000	1,95,000	1,900	0	0
1,95,000	2,00,000	1,925	0	0
2,00,000	2,05,000	1,950	0	0
2,05,000	2,10,000	1,975	0	0
2,10,000	2,15,000	2,000	0	0

SCHEDULE I—*contd.*

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs	Rs. A. P.
2,15,000	2,20,000	2,025 0 0
2,20,000	2,25,000	2,050 0 0
2,25,000	2,30,000	2,075 0 0
2,30,000	2,35,000	2,100 0 0
2,35,000	2,40,000	2,125 0 0
2,40,000	2,45,000	2,150 0 0
2,45,000	2,50,000	2,175 0 0
2,50,000	2,55,000	2,200 0 0
2,55,000	2,60,000	2,225 0 0
2,60,000	2,65,000	2,250 0 0
2,65,000	2,70,000	2,275 0 0
2,70,000	2,75,000	2,300 0 0
2,75,000	2,80,000	2,325 0 0
2,80,000	2,85,000	2,350 0 0
2,85,000	2,90,000	2,375 0 0
2,90,000	2,95,000	2,400 0 0
2,95,000	3,00,000	2,425 0 0
3,00,000	3,05,000	2,450 0 0
3,05,000	3,10,000	2,475 0 0
3,10,000	3,15,000	2,500 0 0
3,15,000	3,20,000	2,525 0 0
3,20,000	3,25,000	2,550 0 0
3,25,000	3,30,000	2,575 0 0
3,30,000	3,35,000	2,600 0 0
3,35,000	3,40,000	2,625 0 0
3,40,000	3,45,000	2,650 0 0
3,45,000	3,50,000	2,675 0 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—*concld.*

Table of rates of ad valorem fees, etc.—concld.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.		
Rs.	Rs.	Rs.	A.	P.
3,50,000	3,55,000	2,700	0	0
3,55,000	3,60,000	2,725	0	0
3,60,000	3,65,000	2,750	0	0
3,65,000	3,70,000	2,775	0	0
3,70,000	3,75,000	2,800	0	0
3,75,000	3,80,000	2,825	0	0
3,80,000	3,85,000	2,850	0	0
3,85,000	3,90,000	2,875	0	0
3,90,000	3,95,000	2,900	0	0
3,95,000	4,00,000	2,925	0	0
4,00,000	4,05,000	2,950	0	0
4,05,000	4,10,000	2,975	0	0
4,10,000	....	3,000	0	0

(Schedule II.—Fixed fees.)

SCHEDULE II.

Fixed fees.

Number.	——	Proper Fee.
1. Application or petition .	(*a*)—When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings;	One anna.

(*Schedule II.—Fixed fees.*)

SCHEDULE II—*contd.*

Fixed fees—contd.

Number.	—	Proper Fee
1. Application or petition—*contd.*	or when presented to any officer of land revenue by any person holding temporarily settled land under direct engagement with Government, and when the subject-matter of the application or petition relates exclusively to such engagement:	
	or when presented to any Municipal Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement,	One anna.
	or when presented to any Civil Court other than a principal Civil Court of original jurisdiction. [1]* * * * *	
	or to any Court of Small Causes constituted under Act[2] No. XI of 1865 or under Act[3] No. XVI of 1868, section 20 or to a Collector or other officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than fifty rupees:	

[1] The words "or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859" rep. by the Cantonments Act, 1889 (13 of 1889).

[2] *See* now the Provincial Small Causes Courts Act, 1887 (9 of 1887), by which Act 11 of 1865 was rep.

[3] *See* now s. 25 of the Bengal, Agra and Assam Civil Courts Act, 1887 (12 of 1887).

(*Schedule I.—Table of rates of ad valorem fees, etc.*)

SCHEDULE I—*concld.*

Table of rates of ad valorem fees, etc.—concld.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.		
Rs.	Rs.	Rs.	A.	P.
3,50,000	3,55,000	2,700	0	0
3,55,000	3,60,000	2,725	0	0
3,60,000	3,65,000	2,750	0	0
3,65,000	3,70,000	2,775	0	0
3,70,000	3,75,000	2,800	0	0
3,75,000	3,60,000	2,825	0	0
3,80,000	3,85,000	2,850	0	0
3,85,000	3,90,000	2,875	0	0
3,90,000	3,95,000	2,900	0	0
3,95,000	4,00,000	2,925	0	0
4,00,000	4,05,000	2,950	0	0
4,05,000	4,10,000	2,975	0	0
4,10,000	....	3,000	0	0

(*Schedule II.—Fixed fees.*)

SCHEDULE II.

Fixed fees.

Number.	——	Proper Fee.
1. Application or petition .	(*a*)—When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings;	One anna.

(*Schedule II.—Fixed fees.*)

SCHEDULE II—*contd.*

Fixed fees—contd.

Number.	——	Proper Fee.
1. Application or petition—*contd.*	or when presented to any officer of land revenue by any person holding temporarily settled land under direct engagement with Government, and when the subject matter of the application or petition relates exclusively to such engagement ;	One anna.
	or when presented to any Municipal Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement ;	
	or when presented to any Civil Court other than a principal Civil Court of original jurisdiction [1]* * * * *	
	or to any Court of Small Causes constituted under Act[2] No. XI of 1865 or under Act[3] No. XVI of 1868, section 20 or to a Collector or other officer of revenue in relation to any suit or case in which the amount or value of the subject matter is less than fifty rupees ;	

[1] [illegible]
Act [illegible]
[2] [illegible]
was rep[illegible]
[3] *See* now s. 25 of the Bengal, Agra and Assam Civil Courts Act, 1887 (12 of 1887).

(*Schedule II.—Fixed fees.*)

SCHEDULE II—*contd.*

Fixed fees—contd.

Number.	——	Proper Fee.
1. Application or petition—*contd.*	or when presented to any Civil, Criminal or Revenue Court, or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer, or of any other document on record in such Court or Office.	One anna.
	(*b*)—When containing a complaint or charge of any offence other than an offence for which police-officers may, under the Criminal Procedure Code,[1] arrest without warrant, and presented to any Criminal Court; or when presented to a Civil, Criminal or Revenue Court, or to a Collector, or any Revenue officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity, and not otherwise provided for by this Act; or to deposit in Court revenue or rent; or for determination by a Court of the amount of compensation to be paid by a landlord to his tenant.	Eight annas.
	(*c*)—When presented to a Chief Commissioner or other Chief Controlling Revenue or Executive Authority, or to a Commissioner of Revenue or Circuit, or to any chief officer charged with the exe-	One rupee.

[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

(*Schedule II.—Fixed fees.*)

SCHEDULE II—*contd.*

Fixed fees—contd.

	Number.	——	Proper Fee.
	1. Application or petition—*concld.*	cutive administration of a Division and not otherwise provided for by this Act (*d*)—When presented to a High Court	 Two rupees
	[1][1A. Application to any Civil Court that records may be called for from another Court	When the Court grants the application and is of opinion that the transmission of such records involves the use of the post	Twelve annas in addition to any fee levied on the application under clause (*a*), clause (*b*) or clause (*d*) of article 1 of this Schedule.]
	2. Application for leave to sue as a pauper		Eight annas
	3 Application for leave to appeal as a pauper.	(*a*)—When presented to a District Court (*b*)—When presented to a Commissioner or a High Court	One rupee. Two rupees
Bom. III of 1876.	4 Plaint or memorandum of appeal in a suit to obtain possession under [2]Act No XVI of 1838, or [3][the [4]Mamlatdars' Courts Act, 1876]	. .	Eight annas.
	5 Plaint or memorandum of appeal in a suit to establish or disprove a right of occupancy		
V of 1898. V of 1908.	[5][6 Bail bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908 and not otherwise provided for by this Act]		
IV of 1869	7. Undertaking under section 49 of the Indian Divorce Act		
	8 [*Rep. by the Repealing and Amending Act 1891 (XII of 1891)*].		
	9 [*Repealed by Act XII of 1891.*]		
	10 Mukhtárnáma or Wakálatnáma	When presented for the conduct of any one case— (*a*)—to any Civil or Criminal Court other than a High Court, or to any	Eight annas

[illegible]

(*Schedule II.—Fixed fees.*)

SCHEDULE II—*contd.*

Fixed fees—contd.

Number.	——	Proper Fee.
10. Mukhtárnáma or Wakálatnáma—*contd.*	Revenue Court, or to any Collector or Magistrate, or other executive officer, except such as are mentioned in clauses (*b*) and (*c*) of this number.	
	(*b*)—to a Commissioner of Revenue, Circuit or Customs or to any officer charged with the executive administration of a Division, not being the Chief Revenue or Executive Authority.	One rupee.
	(*c*)—to a High Court, Chief Commissioner, Board of Revenue, or other Chief Controlling Revenue or Executive Authority.	Two rupees.
11. Memorandum of appeal when the appeal is not [1] * * * * * from a decree or an order having the force of a decree, and is presented—	(*a*)—to any Civil Court other than a High Court, or to any Revenue Court or Executive Officer other than the High Court or Chief Controlling Revenue or Executive Authority.	Eight annas.
	(*b*)—to a High Court or Chief Commissioner, or other Chief Controlling Executive or Revenue Authority.	Two rupees.
12. Caveat. 13. Application under Act[2] No. X of 1859, section 26, or [3]Bengal Act No. VI of 1862, section 9, or [4]Bengal Act No. VIII of 1869, section 37.	....	Five rupees.

[1] The words " from an order rejecting a plaint or " were omitted by s. 155 (Sch. 4) of the Code of Civil Procedure, 1908 (Act 5 of 1908).

[2] Act X of 1859 rep. by the Bengal Tenancy Act, 1885 (8 of 1885), in those portions of the Lower Provinces to which that Act extends and in the Chota Nagpur Division (except Manbhum and the Tributary Mahals) by the Chota Nagpur Landlord and Tenant Procedure Act, 1879 (Ben. 1 of 1879), [now repealed by the Chota Nagpur Tenancy Act, 1908 (Ben. 6 of 1908) B. & O. Code, Vol. III]; in the Province of Agra by Act XVIII of 1873; and in the C. P. by the C. P. Tenancy Act, 1883 (9 of 1883).

[3] Bengal Act 6 of 1862 rep. by the Bengal Tenancy Act, 1885 (8 of 1885) so far as it affected those portions of the Lower Provinces to which that Act extends; and in the Chota Nagpur Division (except Manbhum and the Tributary Mahals) by the Chota Nagpur Landlord and Tenant Procedure Act, 1879 (Ben. 1 of 1879), (rep. by the Chota Nagpur Tenancy Act, 1908 (Ben. 6 of 1908) (B. & O. Code, Vol. III).

[4] Bengal Act 8 of 1869 rep. by the Bengal Tenancy Act, 1885 (8 of 1885).

(*Schedule II —Fixed fees*)

SCHEDULE II—*concld*

Fixed fees—concld

Number	—	Proper Fee
14 Petition in a suit under the Native Converts' Marriage (of 1866) Dissolution Act 1866		Five rupees
15 [*Rep by Act V of 1908*]		
16 [*Rep by Act VI of 1889 s 18 (1)*]		
17 Plaint or memorandum of appeal in each of the following suits — i to alter or set aside a summary decision or order of any of the Civil Courts not established by Letters Patent or of any Revenue Court ii to alter or cancel any entry in a register of the names of proprietors of revenue paying estates iii to obtain a declaratory decree where no consequential relief is prayed iv *to set aside an* award v to set aside an adoption vi every other suit where [illegible] this Act	}	Ten rupees
18 Application under section *326 of the Code of Civil* Procedure [1]		
[2][19 Agreement in writing stating a question for the opinion of the Court under the (1908) Code of Civil Procedure 1908]		
20 Every petition under (1 1869) the Indian Divorce Act, except petitions under section 44 of the same Act, and every memorandum of appeal under section 55 of the same Act	}	Twenty rupees
21 Plaint or memorandum of appeal under the [3]Parsi Marriage and Divorce Act (of 1865) 1865		

[1] *See now* [illegible]
[2] Subs by [illegible] or the original entry [illegible]
[3] *See now* [illegible]

[1]SCHEDULE III.

(See section 19 I.)

FORM OF VALUATION (TO BE USED WITH SUCH MODIFICATIONS, IF ANY, AS MAY BE NECESSARY).

IN THE COURT OF

Re Probate of the Will of (or administration of the property and credits of), deceased.

I { solemnly affirm / make oath } and say that I am the executor (or one of the executors or one of the next-of-kin) of , deceased, and that I have truly set forth in Annexure A to this affidavit all the property and credits of which the above-named deceased died possessed or was entitled to at the time of his death, and which have come or are likely to come, to my hands.

2. I further say that I have also truly set forth in Annexure B all the items I am by law allowed to deduct.

3. I further say that the said assets, exclusive only of such last-mentioned items, but inclusive of all rents, interest, dividends and increased values since the date of the death of the said deceased, are under the value of

ANNEXURE A.	Rs.	A.	P.
VALUATION OF THE MOVEABLE AND IMMOVEABLE PROPERTY OF DECEASED.			
Cash in the house and at the banks, household goods, wearing-apparel, books, plate, jewels, etc.			
(State estimated value according to best of Executor's or Administrator's belief.)			
Property in Government securities transferable at the Public Debt Office.			
(State description and value at the price of the day; also the interest separately, calculating it to the time of making the application.)			
Immoveable property consisting of .			
(State description, giving, in the case of houses, the assessed value, if any, and the number of years' assessment the market-value is estimated at, and, in the case of land, the area, the market-value and all rents that have accrued.)			
Leasehold property			
(If the deceased held any leases for years determinable, state the number of years' purchase the profit rents are estimated to be worth and the value of such, inserting separately arrears due at the date of death and all rents received or due since that date to the time of making the application.)			

[1] This schedule was ins. by s. 3 of the Court-fees Amendment Act, 1899 (11 of 1899). The original Schedule III was rep. by the Repealing Act, 1870 (14 of 1870).

SCHEDULE III—*contd*

	Rs	A	P.
Property in public companies *(State the particulars and the value calculated at the price of the day also the interest separately calculating it to the time of making the application)* Policy of insurance upon life, money out on mortgage and other securities, such as bonds, mortgages bills, notes and other securities for money *(State the amount of the whole, also the interest separately, calculating it to the time of making the application)* Book debts *(Other than bad)* Stock in trade *(State the estimated value, if any)* Other property not comprised under the foregoing heads *(State the estimated value, if any)*			
TOTAL			
Deduct amount shown in Annexure B not subject to duty NET TOTAL			

ANNEXURE B

SCHEDULE OF DEBTS, ETC

	Rs	A	P
Amount of debts due and owing from the deceased, payable by law out of the estate Amount of funeral expenses Amount of mortgage incumbrances Property held in trust not beneficially or with general power to confer a beneficial interest. Other property not subject to duty			
TOTAL			

[1][THE FEMALE INFANTICIDE PREVENTION ACT, 1870]

ACT No VIII OF 1870.

[18th March 1870]

An Act for the Prevention of the murder of Female Infants

WHEREAS the murder of female infants is believed to be commonly committed in certain parts of British India, and whereas it is necessary to make Preamble

[1] Short title given by the Indian Short Titles Act, 1897 (14 of 1897)
For the Statement of Objects and Reasons, see Gazette of India, 1870, Pt. V, p 15, for Proceedings in Council, see ibid, Supplement, pp 53 131 and 473

better provision for the prevention of the said offence; It is hereby enacted as follows :—

Power to take measures under Act in particular districts.

1. If it shall appear to the [1][Provincial Government] that the said offence is commonly committed in any district, or by any class, or family, or persons residing therein, the [1][Provincial Government] may, [2]* * * declare by notification published in the Official Gazette, and in such other manner as the [1][Provincial Government] shall direct, that measures for the prevention of such offence shall be taken under this Act, in such district, or in respect of such class, or family or persons.[3]

The notification shall define the limits of such district, or shall specify the class, or family or persons to whom such notification is to be deemed to apply.

Power to make rules.

[4]**2.** When such notification shall have been published as aforesaid, it shall be lawful for the [1][Provincial Government], subject to the provisions of section 3, from time to time to make rules consistent with this Act for all or any of the following purposes :—

(1) for making and maintaining registers of births, marriages and deaths occurring in such district, or in or among the class, family or persons to whom such notification has been made applicable; and for making, from time to time, a census of such persons, or of any other persons residing within such district :

(2) for the entertainment of any police-force in excess of the ordinary fixed establishment of police, or for the entertainment of any officers or servants, for the purpose of preventing or detecting the murder of female infants in such district, or in or among such class, family or persons, or for carrying out any of the provisions of this Act :

(3) for prescribing how and by whom information shall be given to the proper officers of all births, marriages and deaths occurring or about to occur in such district, or in or among such class, family or persons :

This Act has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

the Districts of Hazáribágh, Lohárdaga and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum, *see* Gazette of India, 1881, Pt. I, p. 504. The District of Lohárdaga included at this time the present District of Palamau, which was separated in 1894; the district of Lohárdaga is now called the Ranchi district, *see* Calcutta Gazette, 1899, Pt. I, p. 44.

As to the operation of the Act in the Bombay Presidency, *see* note to s. 7, *infra.*

[1] Subs. by the A. O. for " L. G.".

[2] The words " with the previous sanction of the G. G. of India in C." rep. by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[3] For notification issued under this power in respect of certain classes of persons in the Ahmedabad and Kaira Districts of the Bombay Presidency, *see* Bom. R. & O.

For notification issued under this power in respect of various localities in the Province of Agra, *see* U. P. List of Local Rules and Orders.

[4] For rules made under the section for the U. P. *see* U. P. List of Local Rules and Orders.

For rules made under this section by the Government of the Punjab in respect of all Jats resident in certain villages of the Jullundur District, *see* Gazette of India, 1901, Pt. I, p. 295.

For rules made by the Govt. of Bombay in respect of the classes referred to in the previous note, *see* Bom. R. & O.

(4) for the regulation and limitation of expenses incurred by any person to whom such notification applies on account of the celebration of marriage or of any ceremony or custom connected therewith

(5) for regulating the manner in which all or any of the expenses incurred in carrying into effect rules made under this section shall be recovered from all or any of the inhabitants of such district, or from the persons to whom such notification is applicable [1]

(6) for defining the duties of any officer or servant appointed to carry out any rule made under this section

Confirmation and publication of r[illegible]

3 No rule or alteration made under section 2 shall take effect until it shall have been [2]* * * * published [3]* * * in the [4][Official Gazette]

Copies of every such rule shall be affixed in such places and shall be distributed in such manner, as the [5][Provincial Government] may direct

Penalty for breach of rules

4 Whoever disobeys any such rule shall, on conviction before any officer exercising the powers of a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Saving of prosecutions under other laws

5 Nothing in this Act, or in any rule made and published as aforesaid shall prevent any person from being prosecuted and punished under any other law for any offence punishable under this Act Provided that no person shall be punished twice for the same offence

Power to place neglected children under supervision.

6 If it appears to the Magistrate of the District that any person to whom the notification mentioned in section 1 applies neglects to make proper provision for the maintenance of any female child for whose maintenance he is legally responsible, and that the life or health of such child is thereby endangered, such Magistrate may, in his discretion, place the child under such supervision as he may think proper, and shall if necessary, remove the child from the custody of such person.

The Magistrate of the District may order him to make a monthly allowance for the maintenance of the child at such monthly rate not exceeding fifty rupees as to such Magistrate shall seem reasonable and, if such person wilfully neglects to comply with such order, such Magistrate may, for every breach of the order, by warrant direct the amount due to be levied in manner provided by section 61[6] of the Code of Criminal Procedure

Nothing in this section shall affect the power of a Magistrate under section 316[7] of the same Code

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[1] As to the application of [illegible]

[2] The words "[illegible] confirmed by the G. G. of India in C[illegible]" [illegible] the Devolution Act, 1920 (38 of 1920).

[3] The words "in the Gazette of India and also" [illegible]

[4] Subs. by the A. O. for "local Gazette".

[5] Subs. by [illegible] for "L. G."

[6] See now the Code of Criminal Procedure, 1[illegible]

[7] [illegible]

Extent of Act.

[1]7. This Act shall, in the first instance, extend only to the North Western Provinces, to the Punjab and to Oudh; but [2]* * * * [3][* the [4][Provincial Government] of any other part of British India may, by notification published in [5][Official Gazette] extend it to any part of the territories under the administration of that [4][Provincial Government].]

THE OUDH TALUQDARS' RELIEF ACT.

CONTENTS.

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[1] The Act has been declared to extend and to have extended from the 21st December, 1870, to the Presidency of Bombay, by s. 2 of Bom. Act 3 of 1897 (*to amend Act 8 of 1870*).

[2] The words "the G. G. of India in C. may by order extend it to any part of the territories (other than Oudh) under the immediate administration of the G. of I. and" rep. by the A. O.

[3] Subs. by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920), for the original words.

[4] Subs. by the A. O. for "L. G.".

[5] Subs. by the A. O. for "local official Gazette".

(I Preliminary II Vesting Order)

SECTIONS

ACT No XXIV OF 1870[1].

[7th September, 1870]

An Act to relieve from incumbrances the estates of Taluqdars in Oudh

WHEREAS many of the taluqdars of Oudh are in debt, and their immoveable property is subject to mortgages charges and liens, and whereas it is expedient to provide for their relief in manner hereinafter appearing It is hereby enacted as follows — Preamble

I —Preliminary

1. This Act may be called the Oudh Taluqdars' Relief Act Short title

2. In this Act— Interpretation clause.

[2] * * *

"taluqdar" means a person whose name is entered in the first of the lists mentioned in the Oudh Estates Act, 1869, section 8 1869

"heir" means the person for the time being entitled under the same Act as heir to a taluqdar

II —Vesting Order

3. Whenever, within twelve months after the passing of this Act, any taluqdar, Power to vest management of taluqdar'

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[1] For Statement of Objects and Reasons see Gazette of India 1870, Pt V, p 161, for Proceedings in Council see ibid, 1870 Supplement pp 99, 855 and 1128

[2] Definition of 'Chief Commissioner' rep by the A O

(IV.—Settlement of Debts.)

Debt or liability, not duly notified, to be barred.

8. Every debt or liability (other than debts due, or liabilities incurred, [1][to the Crown]) to which the taluqdar is subject, or with which his immoveable property or any part thereof is charged, and which is not duly notified to the manager within the time and in manner hereinbefore mentioned, shall be barred :

Provision for admission of claim within further period of nine months.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of sections 6 and 7, the manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

Determination of debts and liabilities.

9. The manager shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities due to the several creditors of the taluqdar and persons holding mortgages, charges or liens on the said property or any part thereof.

Appeal.

10. An appeal against any refusal, admission or determination under section 7, 8 or 9 shall lie, if preferred within six weeks from the date of such determination, to the Commissioner of Division to whom the manager is subordinate, and the decision of such Commissioner, or of the manager if no such appeal has been so preferred, shall be final.

Scheme for settlement of debts and liabilities.

11. When the total amount of such debts and liabilities has been finally determined, the manager shall prepare and submit to the [2][Provincial Government] a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the [2][Provincial Government], shall be carried into effect.

Power to return scheme for revision.

Until such approval is given, the [2][Provincial Government] may, as often as [3][it] thinks fit, send back such scheme to the manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

Restoration of taluqdar property.

12. When all such debts and liabilities have been discharged,

or if, within six months after the publication of the order mentioned in section 3, the [2][Provincial Government] thinks that the provisions of this Act should not continue to apply to the case of the taluqdar or his heir,

the taluqdar or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the manager under the power contained in section 19, but subject to the leases and mortgages (if any) granted and made by the manager under the powers hereinafter contained.

Revival of barred proceedings and acts.

Where the taluqdar or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions and attachments mentioned in [4][section 4] (so far as they relate to debts and liabilities not settled by the manager), and the debts and liabi-

[1] Subs. by the A. O. for "to Govt.".
[2] Subs. by the A. O. for "Chief Commissioner".
[3] Subs. by the A. O. for "he".
[4] Subs. by the Amending Act, 1891 (12 of 1891), s. 2 (2), for "section 3".

lities barred by section 8, shall be revived, and any mortgagee dispossessed under section 17 shall be re instated unless his claim under the mortgage has been satisfied ,

and, in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section 3 shall be excluded

V —Powers of Manager

13. The manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied — Power to call for further particulars

14. For the purposes of this Act, the manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure[1] — Power to summon witnesses and compel production of documents

15. The manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act — Power to administer oaths

16. Every investigation conducted by the manager with reference to any claim preferred before him under this Act or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code — Investigation to be deemed judicial proceeding

[...] 1860

And every statement made by any person examined by or before the manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code — Statements of persons examined to be evidence

17. The manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the taluqdar would have had for such purpose if this Act had not been passed — Manager to have powers of taluqdar

And if such property, or any part thereof, be in the possession of any mortgagee, the manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate and such Court shall cause the same to be delivered to the manager as if a decree therefor had been made in his favour, but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained — Power to remove mortgagee in possession

18 Subject to the rules made under section 20, the manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession, in — Power to lease

[1] *See* now the Code of Civil Procedure, 1908 (5 of 1908)

consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

Power to raise money by mortgage or sale.

19. The manager, with the previous assent of the [1][Provincial Government], shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the taluqdar is subject, or with which his immoveable property or any part thereof is charged, by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling, with the previous consent of the taluqdar and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section shall be bound to see that such money is wanted or that no more than is wanted is raised.

Manager's receipts.

And the receipt of the manager for any moneys paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under section 5, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

The power to mortgage conferred by this section shall not be exerciseable until six months have elapsed from the publication of the order mentioned in section 3.

VI.—*Miscellaneous.*

Power to make rules.

20. The [1][Provincial Government] may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Such rules, when [2]* * * published in the [3][Official Gazette], shall have the force of law.

Power to appoint new managers.

21. Whenever the [1][Provincial Government] thinks fit, he may appoint any Officer to be a manager in the stead of any manager appointed under this Act; and thereupon the management then vested under this Act in the former manager shall become vested in the new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

Managers to be public servants.

22. Every manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code. XLV

Bar of suits.

23. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

Petitions, etc., under Act exempt from court-fees.

24. No petition, application, memorandum of appeal or other proceeding under this Act shall be chargeable under the Court-fees Act, 1870. VII o

[1] Subs. by the A. O. for "Chief Commissioner".
[2] The words "approved by the G. G. of India in C. and" rep. by the A. O.
[3] Subs. by the A. O. for "local official Gazette".

(*VI —Miscellaneous*)

25. Nothing in this Act precludes the Courts of the Province of Oudh having jurisdiction in suits relating to the succession to or rights of persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits, but to all such suits the manager of such property shall be made a party Saving of jurisdiction of Courts in Oudh in respect of certain suits

THE CATTLE-TRESPASS ACT, 1871

CONTENTS

CHAPTER I

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Impounding Cattle.

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CHAPTER VII

SUITS FOR COMPENSATION.

CHAPTER VIII

SUPPLEMENTAL

SCHEDULE

ACT NO. I OF 1871 [1]

[*13th January, 1871*]

An Act to consolidate and amend the law relating to Trespasses by Cattle

WHEREAS it is expedient to consolidate and amend the law relating to trespasses by cattle, It is hereby enacted as follows:— Preamble

CHAPTER I

PRELIMINARY

[2][1. (*1*) This Act may be called the Cattle-trespass Act, 1871; and Title and extent.

[1] *For the Statement of Objects and Reasons see Gazette of India, 1870, Pt. V, p. 310*; for Proceedings in Council *see ibid.* Supplement, pp. 1150, 1200, 1290, and Supplement 1871, p. 178.

This Act has been declared to be in force in the Khondmals District by the Khondmals [illegible] 1936 (1 of 1936), s. 3 and Sch. and in the Angul District by the Angul Laws [illegible]

[2] Subs. by s. 1 of the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891) for original s. 1.

CHAPTER VII.

SUITS FOR COMPENSATION.

...ng of right to sue for compensation.
...off

CHAPTER VIII.

SUPPLEMENTAL.

Pow... to transfer certain ...

SCHEDULE.

ACT No. I OF 1871.[1]

[12th January, 1871.]

An Act to consolidate and amend the law relating to Trespasses by Cattle.

WHEREAS it is expedient to consolidate and amend the law relating to trespasses by cattle; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

[2]1. (1) This Act may be called the Cattle-trespass Act, 1871; and — Title and extent.

...of their ... officer in ... agistrate ... — Procedure if cattle be not claimed within a week

...office a

...of drum

...notice, ...r of his ... subject ...al order

...gistrate ... may be

...ies and ...wner is ...e fines ...red to — Delivery to owner disputing legality of seizure but making deposit

...n the ...attle, ...n by ...s are — Procedure when owner refuses or omits to pay the fines and expenses

...vith — Deduction of fines and expenses.

...hall — Delivery of unsold cattle and balance of proceeds.

...Receipt.

[1] For the Statement of Objects and Reasons, see Gazette of India, 1870, Pt. V, p. 319; for Proceedings in Council, see ibid, Supplement, pp. 1160, 1200, 1250, and Supplement, 1871, p. 170.

This Act has been amended locally—
in Bengal, by Ben. Act 5 of 1934,
in the C. P., by C. P. Act 12 of 1935, and
in Assam, by Assam Act 1 of 1936.

[2] Subs. by s. 1 of the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891) for original s. 1.

(Chapter IV.—Delivery or Sale of Cattle.)

14. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to the officer in charge of the nearest police-station, or to such other officer as the Magistrate of the District appoints in this behalf. Procedure if cattle be not claimed within a week.

Such officer shall thereupon stick up in a conspicuous part of his office a notice stating—

(*a*) the number and description of the cattle,

(*b*) the place where they were seized,

(*c*) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village and at the market-place nearest to the place of seizure.

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

[1]Provided that, if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

15. If the owner or his agent appear and refuse to pay the said fines and expenses, on the ground that the seizure was illegal and that the owner is about to make a complaint under section 20, then, upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him. Delivery to owner disputing legality of seizure but making deposit.

16. If the owner or his agent appear and refuse or omit to pay or (in the case mentioned in section 15) to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by such officer at such place and time, and subject to such conditions, as are referred to in section 14. Procedure when owner refuses or omits to pay the fines and expenses.

The fines leviable and the expenses of feeding and watering, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale. Deduction of fines and expenses.

The remaining cattle and the balance of the purchase-money, if any, shall be delivered to the owner or his agent, together with an account showing— Delivery of unsold cattle and balance of proceeds.

(*a*) the number of cattle seized,

(*b*) the time during which they have been impounded,

(*c*) the amount of fines and charges incurred,

(*d*) the number of cattle sold,

(*e*) the proceeds of sale, and

(*f*) the manner in which those proceeds have been disposed of.

The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the purchase-money (if any) paid to him according to such account. Receipt.

[1] The proviso has been amended in its application to the Bombay Presidency by Bom. Act 5 of 1931.

(Chapter IV.—Delivery or Sale of Cattle. Chapter V.—Complaints of Illegal Seizure or Detention.)

Disposal of fines, expenses and surplus proceeds of sales.

17. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

The charges for feeding and watering deducted under section 16 shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section 13.

The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and, if no claim thereto be preferred and established within that period, shall, at its expiry,[1][be deemed to hold them as part of the revenues of the Province].

[2]**18.** [*Application of fines and unclaimed proceeds of sale.*] *Rep. by the A. O.*

Officers and pound-keepers not to purchase cattle at sales under Act.

19. No officer of police or other officer or pound-keeper appointed under the provisions herein contained shall, directly or indirectly, purchase any cattle at a sale under this Act.

Pound-keepers when not to release impounded cattle.

No pound-keeper shall release or deliver any impounded cattle otherwise than in accordance with the former part of this Chapter, unless such release or delivery is ordered by a Magistrate or Civil Court.

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[3] CHAPTER V.

COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION.

Power to make complaints.

20. Any person whose cattle have been seized under this Act, or, having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint[4] to the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

Procedure on complaint.

21. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

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[1] Subs. by the A. O. for " dispose of them as hereinafter provided ".

[2] This section read as follows :—

" Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle shall be paid—

(*a*) the salaries allowed to pound-keepers under the orders of the Local Government;

(*b*) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act;

and the surplus (*if any*) shall be applied under orders of the Local Government to the construction and repair of roads and bridges and to other purposes of public utility."

[3] Subs. for the original Ch. V by s. 6 of the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891).

[4] The term " offence " as defined by s. 4 (*o*) of the Code of Criminal Procedure, 1898 (5 of 1898), includes any act in respect of which a complaint may be made under this section.

Offences under this section may be tried in a summary way, *see* Act 5 of 1898, s. 260 (*1*) (*m*).

If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

22. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle, *(Compensation for illegal seizure or detention.)*

and, if the cattle have not been released, the Magistrate shall besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle. *(Release of cattle.)*

23. The compensation, fines and expenses mentioned in section 22 may be recovered as if they were fines imposed by the Magistrate.[1] *(Recovery of compensation.)*

CHAPTER VI

PENALTIES

24. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, *(Penalty for forcibly opposing the seizure of cattle or rescuing the same.)*

and whoever rescues the same after seizure, either from a pound or from any person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act,

shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

[2]**25.** Any fine imposed [3][under the next following section or] for the offence of mischief by causing cattle to trespass on any land may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed. *(Recovery of penalty for mischief committed by causing cattle to trespass.)*

26. Any owner or keeper of pigs who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, [4]by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees. *(Penalty for damage caused to land or crop or public roads by pigs.)*

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[1] *See* ss. 63 to 70 of the Indian Penal Code (45 of 1860) and s. 386 of the Code of Criminal Procedure, 1898 (5 of 1898); *cf.* also s. 25 of the General Clauses Act, 1897 (10 of 1897).

[2] As to the application of s. 25 in the case of cattle trespassing on a railway, *see* the Indian Railways Act, 1890 (9 of 1890), s. 125 (3).

[3] Ins. by s. 7 of the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891).

[4] "Public road" in s. 26 includes a railway—*see* the Indian Railways Act, 1890 (9 of 1890), s. 125 (4).

(Chapter VI.—Penalties. Chapter VII.—Suits for Compensation. Chapter VIII.—Supplemental.)

[1][The [2][Provincial Government], by notification in the Official Gazette, may from time to time, with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words "*fifty rupees*" were substituted for the words "ten rupees," or as if there were both such reference and such substitution.]

[3]* * * * * * *

Penalty on pound-keeper failing to perform duties.

27. Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of section 19, or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall, over and above any other penalty to which he may be liable, be punished, on conviction before a Magistrate, with fine not exceeding fifty rupees.

Such fines may be recovered by deductions from the pound-keeper's salary.

Application of fines recovered under section 25, 26 or 27.

28. All fines recovered under section 25, section 26 or section 27 may be appropriated in whole or in part as compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

CHAPTER VII.

SUITS FOR COMPENSATION.

Saving of right to sue for compensation.

[4]**29.** Nothing herein contained prohibits any person whose crops or other produce of land have been damaged by trespass of cattle from suing for compensation in any competent Court.

Set-off.

30. Any compensation paid to such person under this Act by order of the convicting Magistrate shall be set-off and deducted from any sum claimed by or awarded to him as compensation in such suit.

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[5] CHAPTER VIII.

SUPPLEMENTAL.

Power for Provincial Government to transfer certain functions to local

31. The [2][Provincial Government] may, from time to time, by notification in the Official Gazette,—

(*a*) transfer to any local authority [6]within any part of the territories under its administration in which this Act is in operation, all

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[1] Ins. by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), s. 8.
[2] *Subs. by the A. O. for "L. G."*.
[3] Last paragraph of s. 26 rep. by the Repealing and Amending Act, 1914 (10 of 1914).
[4] *This section has been amended in its application to the C. P. by C. P. Act 12 of 1935.*
[5] Ch. VIII was added by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), s. 9.
[6] For special enactments *see*, as to the C. P., the C. P. Local Self-Government Act, 1920 (C. P. 4 of 1920), s. 21, cl. (*h*), Vol. I; and as to the Punjab, the Punjab District Boards Act, 1883 (20 of 1883), s. 20, cl. (*n*).

or any of the functions of the [1][Provincial Government] or the Magistrate of the District under this Act, within the local area subject to the jurisdiction of the local authority, [2]* * [3] authority and direct credit of surplus receipts to local fund

SCHEDULE

[4][Omitted]

THE CORONERS ACT, 1871.

CONTENTS

[1] Subs by the A O for ' L. G

[4] See Preface para

SECTIONS.

CHAPTER IV.

CORONERS' JURIES.

CHAPTER V.

Rights and Liabilities of Coroners.

SECTIONS.

ACT No. IV OF 1871.[1]

[*27th January, 1871.*]

An Act to consolidate and amend the laws relating to Coroners.

WHEREAS it is expedient to consolidate and amend the laws relating to Coroners in the Presidency-towns; It is hereby enacted as follows:— Preamble.

CHAPTER I.

Preliminary.

1. This Act may be called the Coroners Act, 1871. Short title.

[2]*   *   *   *   *   *   *   *

2. [*Repeal of enactments.*] *Rep. by the Repealing Act, 1873 (XII of 1873).*

CHAPTER II.

Appointment of Coroners.

[3][3. Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of Judicature at Fort William and Bombay there Coroners of Calcutta and Bombay.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1870, Pt. V, p. 295; for Preliminary Report of the Select Committee, *see ibid.*, p. 3[illegible]1; and for Proceedings in Council, *see ibid.* Supplement, pp. 1077, 1170, 1[illegible]58, and *ibid.* 1871, pp. 1[illegible]8 and 1207.

[2] The local extent and commencement clauses of this section were rep., respectively, by s. 2 of the Coroners Act, 1881 (10 of 1881) and by the Repealing Act, 1874 (16 of 1874).

[3] Subs. by the Coroners (Madras) Act, 1889 (5 of 1889), s. 2, for the original section.

(Chapter III —Duties and Powers of Coroners)

11. A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person either for the purpose of taking an original inquisition where none has been taken, or a further inquisition [1][where the Coroner considers it necessary or desirable in the interests of justice to take a further inquisition] — *Power to order body to be disinterred*

12. On receiving notice of any death mentioned in section 8, the Coroner shall summon five, seven, nine, eleven, thirteen or fifteen respectable persons to appear before him at a time and place to be specified in the summons, for the purpose of inquiring when, how and by what means the deceased came by his death — *Summoning jury*

Any inquest under this Act may be held on a Sunday — *Inquest may be on Sunday*

13. When the time arrives, the Coroner shall proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors — *Opening Court*

14. When a sufficient jury is in attendance, he shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body — *Jurors to be sworn*

15. The Coroner and the jury shall view and examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires — *View of body*

[2][Provided that the Coroner may, with the concurrence of a majority of the jury, dispense with a view of the body, if he is satisfied, from medical evidence or medical certificates, that no advantage would result from such viewing]

16. The Coroner shall then make proclamation for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such as know anything concerning the death — *Proclamation for witnesses*

17. [3][It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses, the Coroner shall inquire of such circumstances and the cause of death, and, if before or during the inquiry he is informed that any person, whether within or without the local limits of his jurisdiction, can give evidence or produce any document material thereto, may issue a summons requiring him to attend and give evidence or produce such document on the inquest — *Summoning witnesses*

Any person disobeying such summons shall be deemed to have committed an offence under section 174, section 175 or section 176 of the Indian Penal
XLV of 1860 Code, as the case may be]

[1] Subs for "where the first was insufficient" by the Coroners (Amendment) Act, 1908 (4 of 1908), s 3

[2] Ins by ibid, s 4

[3] Subs by the Coroners Act, 1881 (10 of 1881), s 6, for the original paragraphs.

(*Chapter III.—Duties and Powers of Coroners.*)

For the purpose of causing prisoners to be brought up to give evidence, the Coroner shall be deemed a Criminal Court within the meaning of [1][Part IX of the Prisoners Act, 1900]. III of 1900.

Post-mortem examinations.

18. The Coroner may direct the performance of a *post-mortem* examination with or without an analysis of the contents of the stomach or intestines by any medical witness summoned to attend the inquest: and every medical witness, other than the Chemical Examiner to Government, shall be entitled to such reasonable remuneration as the Coroner thinks fit.

Fees to medical witnesses.

Report of Chemical Examiner.

[2][**18A.** Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquest under this Act and in any subsequent inquiry, trial or other proceeding under the Code of Criminal Procedure, 1898.]

Evidence to be on oath. Evidence on behalf of accused.

19. All evidence given under this Act shall be on oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person.

Interpreter.

Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given by, the witnesses.

Questions suggested by jury.

After each witness has been examined, the Coroner shall inquire whether the jury wish any further questions to be put to the witness, and, if the jury wish that any such questions shall be put, the Coroner shall put them accordingly.

Coroner to take down evidence in writing.

20. The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read or cause to be read over such parts to the witness and then procure his signature thereto.

Witnesses to sign depositions.

Any witnesses refusing so to sign shall be deemed to have committed an offence under section 180 of the Indian Penal Code. XLV of 1860.

Coroner to subscribe depositions.

Every such deposition shall be subscribed by the Coroner.

Coroner a Magistrate.

[3][For the purposes of section 26 of the Indian Evidence Act, 1872, a Coroner shall be deemed to be a Magistrate.] I of 1872.

Adjournment of in-
' re-

21. The Coroner may adjourn the inquest from time to time, and from place to place.

Whenever the inquest is adjourned the Coroner shall take the recognizances of the jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded with.

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[1] Subs. by the Coroners (Amendment) Act, 1908 (4 of 1908), for "Act No. XV of 1869 (*to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them*)."

[2] Ins. by *ibid.*, s. 6.

[3] Ins. by *ibid*, s. 7.

(*Chapter III.—Duties and Powers of Coroners.*)

The amount of such recognizances shall in each case be fixed by the Coroner [1][and the whole, or such part thereof as to the Coroner seems fit, shall, in default of attendance by the jurors, be recoverable in the same manner as a fine imposed under section 31.]

Coroner to sum up to jury.

22. When all the witnesses have been examined, the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict.

Coroner to draw up inquisition.

23. When the verdict is delivered the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority.

Contents of inquisition.

24. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth—

(*1*) where, when and before whom the inquisition is holden,

(*2*) who the deceased is,

(*3*) where his body lies,

(*4*) the names of the jurors, and that they present the inquisition upon oath,

(*5*) where, when and by what means the deceased came by his death, and

(*6*) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition shall be in the form set forth in the second schedule hereto annexed, with such variation as the circumstances of each case require.

Procedure where death is found due to an act amounting to an offence.

[2][25. When the jury or a majority of the jury find that the death of the deceased person was occasioned by an act which amounts to an offence under any law in force in British India, the Coroner shall immediately after the inquest forward a copy of the inquisition, together with the names and addresses of the witnesses, to the Commissioner of Police.]

Power to arrest and commit for trial.

[3][26. The Coroner may also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person who is found to have caused the death of the deceased person, and send him forthwith to a Magistrate empowered to commit him for trial.]

27. [*Power to accept bail.*] *Rep. by the Coroners (Amendment) Act, 1908 (IV of 1908), s. 10.*

Warrant for burial.

28. [illegible] be necessary to adjourn the inqu[illegible] [4][disposal] of the body on which the inquest has been taken.

Inquisitions not to be quashed for want of form.

29. No inquisition found upon or by any inquest shall be quashed for any technical defect.

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[1] Ins. by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 7.

[2] Subs. by *ibid.*, s. 8, for the original section.

[3] Subs. by *ibid.*, s. 9, for the original section.

[4] Subs. by *ibid.*, s. 11, for "burial".

(*Chapter III.—Duties and Powers of Coroners. Chapter IV.—Coroners' Juries.*)

Amendment of inquisition.

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

Cessation of jurisdiction as to treasure trove, wrecks, etc.

30. It shall no longer be the duty of the Coroner to inquire whether any person dying by his own act was or was not *felo de se*, to inquire of treasure trove or wrecks, to seize any fugitive's goods, to execute process or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

Felo de se.

A *felo de se* shall not forfeit his goods.

Deodands.

Deodands are hereby abolished.

CHAPTER IV.

Coroners' Juries.

Fine on juror neglecting to attend.

[1] **31.** Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror; and upon the non-appearance of such person, and proof that such summons has been served upon him or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty rupees, as to the Coroner seems fit.

Certificate as to defaulting juror.

32. The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine so imposed, and the cause of such fine,

and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

Service of copy of certificate.

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered.

Levy of fine.

33. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself.

Jurors not to be summoned twice within the year.

34. Unless in case of necessity, no person who has appeared, or has been summoned to appear, as a juror on an inquest, and has not made default shall, within one year after such appearance or summons, be summoned to appear as a juror under this Act.

[1] A new section has been substituted for this section in Bombay by the Coroners (Bombay Amendment) Act, 1930 (Bom. Act 13 of 1930), s. 4.

(Chapter IV.—Coroners' Juries. Chapter V.—Rights and Liabilities of Coroners.)

35. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest. Jurors on inquest on prisoner.

CHAPTER V

Rights and Liabilities of Coroners

36. Every Coroner shall be entitled to such salary for the performance of the duty of his office as is prescribed in that behalf by the [1][Provincial Government.] Coroner's salary.

37. All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury, and the like, shall be repaid to him by the [2][Provincial Government]. Disbursements to be repaid.

38. Every Coroner may from time to time, with the previous sanction of the [2][Provincial Government], appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests [3]* * * Power to appoint deputy.

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him.

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made. Revocation of appointment.

39. No Coroner or Deputy Coroner shall be liable to serve as a juror. Exemption from serving on juries.

40. Coroners and Deputy Coroners shall be privileged from arrest while engaged in the discharge of their official duty. Privilege from arrest.

41. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose. Penalty for failure to comply with Act.

42. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted [4]* * * * after tender of sufficient amends. Limitation of suits.

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[1] Subs by the A. O. for "L. G." which words had been subs. for "G. G. in C." by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

[2] Subs by the A. O. for "L. G."

[3] The words "and such deputy shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of office" rep. by the Indian Oaths Act, 1873 (10 of 1873).

[4] The words "after the expiration of three months from such fact or failure nor" rep. by the Indian Limitation Act, 1871 (9 of 1871).

FIRST SCHEDULE.

[ENACTMENTS REPEALED.]

Rep. by the Repealing Act, 1873 (XII of 1873).

[1] SECOND SCHEDULE.

FORM OF INQUISITION.

AN INQUISITION taken at on the day of 187 , before *E F*, Coroner of [2][in the case of *A B* deceased] upon the oath of *G H*, *I J*, *K L*, and *M N*, then and there duly sworn and charged to inquire when, how and by what means the said *A B* came to his death.

We, the said jurors, find unanimously [*or* by a majority of] that the death of the said *A B* was caused, on or about the day of 187 , by [*here state the cause of death as in the following examples*] :—

1. [*Cases of homicide*]—a blow on the head with a stick inflicted on him by *C D*, under such circumstances that the act of *C D* was justifiable [*or* accidental] homicide.
   —a stab on the heart with a knife inflicted on him by *C D* under such circumstances that the act of *C D* was culpable homicide not amounting to murder [*or* culpable homicide amounting to murder, *or* a rash *or* negligent act not amounting to culpable homicide].
2. [*Cases of accident*]—falling out of a boat into the river Hughli, whereby he was drowned.
   —a kick from a horse which fractured his skull and ruptured blood-vessels in his head.
3. [*Cases of suicide*]—shooting himself through the head with a pistol.
   —arsenic, which he voluntarily administered to himself.
4. [*Cases of sudden death by means unknown*]—disease of the heart.
   —apoplexy.
   —sunstroke.

And so say the jurors upon their oath aforesaid.

Witness our hands. *E F, Coroner of*

G H, I J, K L, M N, O P (jurors).

ACT No. XXI OF 1871[3].

[*11th July, 1871.*]

An Act to give validity to the operation of the General Regulations and Acts within the Dehra Dun.

Preamble. WHEREAS it is necessary to give validity to the operation of the general

[1] The second Schedule has been replaced in Bombay by a fresh Schedule, by the Coroners (Bombay Amendment) Act, 1930 (Bom. Act 13 of 1930), s. 5.

[2] Subs. for " on view of the body of *A B* then and there lying dead " by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 12.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1871, Pt. V, p. 221 ; for Proceedings in Council, *see ibid*, Supplement, pp. 907 and 1050.

Regulations and Acts within the district under the Superintendent of the Dehra Dun [1]* * * * *; it is hereby enacted as follows:—

Extension of Regulations and Acts in force in Saharanpur to Dehra Dun

1. The Regulations and Acts now in force in the district of Saharanpur are hereby declared to extend to the said district of Dehra Dun[2] * *.

Jurisdiction of High Court and Board of Revenue over Dehra-Dun

2. The High Court and the Board of Revenue of the North-Western Provinces shall exercise [3]* * * * respectively, in the said district, all the powers which the said High Court or Board of Revenue are at present, respectively, authorized to exercise in any part of the North-Western Provinces.

District Court of Saharanpur to be District Court of Dehra Dun.

3. The District Court of Saharanpur shall be [4]* * * the District Court of such district until the [5][Provincial Government] otherwise directs[6] * *.

Exemption of Jaunsar Bawar

4. Nothing in this Act shall apply to that portion of the Dehra Dun District called [7]Jaunsar Bawar[8] * * * *.

THE PENSIONS ACT 1871.

ACT No XXIII OF 1871 [9]

[*8th August, 1871*]

An Act to consolidate and amend the law relating to Pensions and Grants by Government of money or land-revenue.

Preamble

WHEREAS it is expedient to consolidate and amend the law relating to

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[1] The words "and to indemnify all officers and other persons who have acted in the said district under the said Regulations and Acts" rep by the Repealing Act, 1874 (16 of 1874)

[2] The words "and no judgment heretofore given, order passed or proceeding had in the said district, shall be deemed to have been or to be invalid merely because any Regulation or

by *ibid*

[4] The words "deemed to have been heretofore the District Court of the said district of Dehra Dun and" rep by *ibid*

[5] Subs by the A O for "L G"

[6] The words "and may subject to the provisions of Act VI of 1871, hear appeals from decisions given in the said district before the passing of this Act" rep by the Amending Act, 1891 (12 of 1891)

[7] Jaunsar Bawar is one of the scheduled districts of the Province of Agra, *see* the Scheduled Districts Act 1874 (14 of 1874), First Schedule, Pt IV

[8] The words "and referred to in s 11 of Act XXIV *of 1864*" rep by the Amending Act,

[9] Reasons, *see* Gazette of India, 1871, Pt V, p 141, 1, Supplement, pp 314, 401, 653, 1050, 1147.

pensions and grants by Government of money or land-revenue ; It is hereby enacted as follows :—

I.—Preliminary.

Short title.

1. This Act may be called the Pensions Act, 1871.

Extent of Act.

It extends to the whole of British India ;

[1] * * * * * * * * * *

[2] * * * *.

2. [*Enactments repealed. Saving of Rules.*] *Omitted.*[3]

Interpretation-section.

3. In this Act, the expression " grant of money or land-revenue " includes anything payable on the part of Government in respect of any right, privilege, perquisite or office.

Definition.

[4][**3A.** The expression " the appropriate Government " means, in relation to federal pensions, the Central Government, and in relation to other pensions, the Provincial Government.]

II.—Rights to Pensions.

Bar of suits relating to pensions.

4. Except as hereinafter provided, no Civil Court shall entertain any suit relating to any pension or grant of money or land-revenue conferred or made by the British or any former Government, whatever may have been the consideration for any such pension or grant, and whatever may have been the nature of the payment, claim or right for which such pension or grant may have been substituted.

Claims to be made to Collector or other authorized officer.

[5]**5.** Any person having a claim relating to any such pension or grant may prefer such claim to the Collector of the District or Deputy Commissioner or other officer authorized in this behalf by the [6][appropriate Government] ; and such Collector, Deputy Commissioner or other officer shall dispose of such claim in accordance with such rules as the Chief Revenue-authority may,

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This Act has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3, and in the Santhál Parganas by the Santhál Parganas Settlement Regulation, 1872 (3 of 1872).

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

The Districts of Hazáribágh, Lohárdaga and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum. *See* Gazette of India, 22nd October, 1881, Pt. I, p. 504. The District of Lohárdaga included at this time the present District of Palamau, which was separated in 1894. The District of Lohárdaga is now called the Ranchi District, Calcutta Gazette, 1899, Pt. I, p. 44.

The Act applies to certain allowances known as the Oudh Wasikas as if they were pensions of the classes referred to in sections 4 and 11 of the Act. *See* the Oudh Wasikas Act, 1886 (21 of 1886), s. 2.

[1] The words " and it shall come into force on the date of the passing thereof " rep. by the Repealing and Amending Act, 1914 (10 of 1914).

[2] The words " but not so as to affect any suit in respect of a pension or grant of money or land-revenue which may have been instituted before such date " rep. by the Amending Act, 1891 (12 of 1891).

[3] *See* Preface, para. 7.

[4] Ins. by the A. O.

[5] S. 5 has been amended in its application to U. P. by the U. P. Board of Revenue Act, 1922 (U. P. Act 12 of 1922).

[6] Subs. by the A. O. for " L. G. "

(II —Rights to Pensions III —Mode of Payment)

subject to the general control of the [1][appropriate Government] from time to time prescribe in this behalf

Civil Court empowered to take cognizance of such claims

6. A Civil Court, otherwise competent to try the same, shall take cognizance of any such claim upon receiving a certificate from such Collector, Deputy Commissioner or other officer authorized in that behalf that the case may be so tried, but shall not make any order or decree in any suit whatever by which the liability of Government to pay any such pension or grant as aforesaid is affected directly or indirectly

Pensions for lands held under grants in perpetuity

7. Nothing in sections 4 and 6 applies to—

(1) any inám of the class referred to in section 1 of Madras Act No IV of 1862[2]

(2) pensions heretofore granted by Government in the territories respectively subject to the Lieutenant Governors of Bengal and the North Western Provinces either wholly or in part as an indemnity for loss sustained by the resumption by a Native Government of lands held under sanads purporting to confer a right in perpetuity Such pensions shall not be liable to resumption on the death of the recipient but every such pension shall be capable of alienation and descent and may be sued for and recovered in the same manner as any other property

III —Mode of Payment

Payment to be made by Collector or other authorized officer

[3] **8.** All pensions or grants by Government of money or land revenue shall be paid by the Collector or the Deputy Commissioner or other authorized officer subject to such rules as may, from time to time, be prescribed by the Chief Controlling Revenue authority

Saving of rights of grantees of land revenue

9. Nothing in sections 1 and 8 shall affect the right of a grantee of land revenue, whose claim to such grant is admitted by Government, to recover such revenue from the persons liable to pay the same under any law for the time being in force for the recovery of the rent of land

Commutation of pensions

10. The [1][appropriate Government] may, with the consent of the holder order the whole or any part of his pension or grant of money or land revenue to be commuted for a lump sum on such terms as may seem fit

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[illegible] or in lieu of resumed offices or privileges or of zamindáris or paleiyams forfeited or held under attachment or management by the officers of Govt or as a yaumia or charitable allowance or as a pension

[3] S 8 has been amended in its application to U P by the U P Board of Revenue Act 192[illegible] (U P Act 12 of 1922)

IV.—Miscellaneous.

Exemption of pension from attachment.

[1] **11.** No pension granted or continued by Government on political considerations, or on account of past services or present infirmities or as a compassionate allowance,

and no money due or to become due on account of any such pension or allowance,

shall be liable to seizure, attachment or sequestration by process of any Court in British India, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

[2][This section applies in British India also to pensions granted or continued,[3] after the separation of Burma from India, by the Government of Burma.]

Assignments, etc., in anticipation of pension, to be void.

12. All assignments, agreements, orders, sales and securities of every kind made by the person entitled to any pension, pay or allowance mentioned in section 11, in respect of any money not payable at or before the making thereof, on account of any such pension, pay or allowance, or for giving or assigning any future interest therein, are null and void.

Reward to informers.

13. Whoever proves to the satisfaction of the [4][appropriate Government] that any pension is fraudulently or unduly received by the person enjoying the benefit thereof shall be entitled to a reward equivalent to the amount of such pension for the period of six months.

Power to make rules.

[5] **14.** [6][In each Province] the Chief Controlling Revenue-authority may, with the consent of the [4][appropriate Government], from time to time make rules consistent with this Act respecting all or any of the following matters :—

(1) the place and times at which, and the person to whom, any pension shall be paid ;
(2) inquiries into the identity of claimants ;
(3) records to be kept on the subject of pensions ;
(4) transmission of such records ;
(5) correction of such records ;
(6) delivery of certificates to pensioners ;
(7) registers of such certificates ;
(8) reference to the Civil Court, under section 6, of persons claiming a right of succession to, or participation in, pensions or grants of money or land-revenue payable by Government ;

and generally for the guidance of officers under this Act.

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[1] *See* also s. 60, cl. (*g*) of the Code of Civil Procedure, 1908 (Act 5 of 1908).
[2] Ins. by the A. O.
[3] *i.e.*, on or after the 1st April 1937.
[4] Subs. by the A. O. for "L. G.".
[5] S. 14 has been amended in its application to U. P. by the U. P. Board of Revenue Act, 1922 (U. P. Act 12 of 1922).
[6] Ins. by the A. O.

All such rules shall be published in the [1][Official Gazette], and shall thereupon have the force of law

SCHEDULE

[2][*Omitted*]

THE INDIAN WEIGHTS AND MEASURES OF CAPACITY ACT, 1871

CONTENTS

[1] Subs by the A O for local official Gazette
[2] *See* Preface para. 7

ACT NO. XXXI OF 1871.[1]

[*30th October, 1871.*]

An Act to regulate the Weights and Measures of Capacity of British India.

Preamble.

WHEREAS it is expedient to provide for the ultimate adoption of a uniform system of Weights and Measures of Capacity throughout British India; It is hereby enacted as follows:—

I.—Preliminary.

Short title. Local extent.

1. This Act may be called the Indian Weights and Measures of Capacity Act, 1871, and extends to the whole of British India.

II.—Standards.

Standard of weight.

2. The primary standard of weight shall be called a ser, and shall be a weight of metal in the possession of the [2][Central Government], equal, when weighed in a vacuum, to the weight known in France as the Kilogramme de Archives.

Units of weights and measures of capacity.

3. The units for weight and of measures of capacity shall be—

for weights, the said ser;

for measures of capacity, a measure containing one such ser of water at its maximum density weighed in a vacuum.

Special weights and measures of capacity may be authorized.

4. The [3][appropriate Government] may, from time to time, by notification in the [4][Official Gazette], declare the magnitude and denominations of the weights and measures of capacity, other than the said units, to be authorized under this Act:

Provided that every such weight or measure of capacity shall be an integral multiple or integral sub-multiple of one of the units aforesaid.

The [3] [appropriate Government] may, in like manner, revoke such notification.

Unless it be otherwise ordered in any such notification, the sub-divisions of all such weights and measures of capacity shall be expressed in decimal parts.

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[1] For the Statement of Objects and Reasons, *see* Gazette of India, 1871, Pt. V, p. 398; for Proceedings in Council, *see ibid*, 1871, Supplement, pp. 1181, 1290, 1424, 1575.

This Act has been rep. in its application to :—the C. P., by the C. P. Weights and Measures of Capacity Act, 1928 (C. P., Act 2 of 1928), Coorg, by the Coorg Weights and Measures of Capacity Act, 1931 (Coorg Act 1 of 1931) and the Bombay Presidency by the Bombay Weights and Measures Act, 1932 (Bom. Act 15 of 1932).

[2] Subs. by the A. O. for "G. of I.".

[3] Subs. by the A. O. for "G. G. in C.". For definition of "appropriate Govt." *see* s. 18 *infra*.

[4] Subs. by the A. O. for "Gazette of India".

(II.—Standards. III.—Use of new Weights and Measures of Capacity. IV.—Wardens.)

Districts how defined.

5. The [1][appropriate Government] may, from time to time, by notification in the [2][Official Gazette], define the limits of districts for the purposes of this Act.

Sub-districts how defined.

The [3][appropriate Government] may, from time to time, by notification in the Official Gazette, define the limits of sub-districts for the purposes of this Act.

Primary standards to be provided.

6. The [1][appropriate Government] may provide, for such districts as [4][it] thinks fit, proper primary standards and sets of the said authorized weights and measures of capacity.

Such standards shall, for the purposes of this Act, be deemed the standards for such districts.

Local standards to be provided.

7. The [3][appropriate Government] may provide, for such sub-districts as it thinks fit, copies of such of the said authorized weights and measures of capacity as shall be necessary to serve as local standards in such sub-districts.

Such local standards shall be deemed correct, until they are proved to be otherwise.

III.—Use of new Weights and Measures of Capacity.

Use of new weights and measures of capacity in Government offices, etc.

8. Whenever the [1][appropriate Government] considers that proper standard weights and measures of capacity have been made available for the verification of the weights and measures of capacity to be used by any Government office or municipal body or railway company, the [1][appropriate Government] may, by notification in the [2][Official Gazette], direct that, after a date to be fixed therein, all or any of the weights and measures of capacity authorized as aforesaid shall be used in dealings and contracts by such office, body or company, and may, in like manner, from time to time, alter or revoke such direction.

Contracts by weight or measure of capacity.

9. After the date fixed in any notification under section 8, all dealings and contracts had and made by the officers, bodies or companies, mentioned in such notification, for any work to be done or goods to be sold or delivered by weight or measure of capacity, shall, in the absence of a special agreement to the contrary, be deemed to be had and made according to the weights or measures of capacity directed in such notification to be used by such officers, bodies or companies.

IV.—Wardens.

Appointment of wardens.

10. The [5][appropriate Government] shall appoint Wardens for the custody of the primary and local standards and sets of authorized weights and measures of capacity hereinbefore mentioned.

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[1] Subs. by the A. O. for "G. G. in C." For definition of "appropriate Govt." *See* s. 18 *infra*.

[2] Subs. by the A. O. for "Gazette of India".

[3] Subs. by the A. O. for "L. G.".

[4] Subs. by the A. O. for "he".

[5] Subs. by the A. O. *for* "G. G. in C., and the L. G., respectively".

(IV.—Wardens.)

The [1][appropriate Government] may, at any time, suspend or remove any such Warden and appoint another.

Power to make rules.

11. The [2][appropriate Government] may, from time to time, make rules consistent with this Act for regulating the following matters :—

(*a*) the appointment of Wardens ;

(*b*) the guidance of Wardens in all matters connected with the performance of their duties ;

(*c*) the provision, replacement, custody and use of the standards ;

(*d*) the method of verifying local standards and weights, weighing machines and measures of capacity authorized under this Act, and balances, and of certifying such verification :

provided that such verification shall not be required to be made oftener than once in two years ;

(*e*) the errors which may be tolerated in weights, weighing machines and measures of capacity authorized under this Act, and in balances ;

(*f*) the shapes, proportions and dimensions to be given to weights, weighing machines and measures of capacity authorized under this Act, and to balances, and the materials of which they may be made ;

(*g*) marking weights and measures of capacity authorized under this Act with their several denominations ;

(*h*) the conditions under which Government offices, municipal bodies and railway companies shall be subject to inspection and verification of the weights, weighing machines and measures of capacity authorized under this Act, and of the balances used by them ;

(*i*) the fees to be paid for verifying, correcting and certifying the verification of weights, weighing machines and measures of capacity authorized under this Act, and of balances.

Publication of rules. Rules, when specially applied, to have force of law.

12. Such rules shall be published in the [3][Official Gazette].

And the [2][appropriate Government] may, by notification in the [3][Official Gazette], declare that, from and after a day to be named therein, all or any of the said rules shall come into force in respect of any Government office, municipal body or railway company : and thereupon, to the extent specified in such notification, such rules or rule shall have the force of law.

Officers of Government and others to comply with rules.

13. All officers of Government, municipal officers, and officers and servants of railway companies shall comply with such rules so far as they concern them, and pay such fees as the said rules shall prescribe.

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[1] Subs. by the A. O. for " G. G. in C., or the L. G., respectively ".
[2] Subs. by the A. O. for " G. G. in C.".
[3] Subs. by the A. O. for " Gazette of India ".

(*IV.—Wardens.*)

14. The Warden may deface, or render incapable of use, or refuse to verify, correct or mark, anything brought to him for verification or correction, which appears to him unfit for verification or correction. Warden may refuse to verify or correct things unfit.

15. Any of the powers and duties conferred and imposed by this Act on a Warden may be exercised and performed by any other officer whom the [1][appropriate Government] may, from time to time, appoint. Exercise of any of Warden's powers.

16. Whoever knowingly counterfeits any mark used by a Warden under section 11 shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine. Counterfeiting Warden's marks.

17. The [1][appropriate Government] may, from time to time, prepare tables of the equivalents of weights and measures of capacity, other than those authorized under this Act, in terms of the weights and measures of capacity so authorized, and the equivalents so stated, after notification in the [2][Official Gazette], shall be deemed the true equivalents. Tables of equivalents.

[3][**18.** In this Act "the appropriate Government" means, in relation to standards of weight, the Central Government, and in relation to measures of capacity, the Provincial Government.] Definition of appropriate Government.

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".
[3] This section was added by the A. O.

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